

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400

F-5a

Filed: December 16, 1999
49th Day: February 3, 1999 (waived)
Staff: JAS-SF
Staff Report: January 25, 2000
Hearing Date: February 16, 2000
Commission Action:

**APPEAL STAFF REPORT
SUBSTANTIAL ISSUE DETERMINATION
AND DE NOVO HEARING**

APPEAL NO.: A-2-SMC-99-066

APPLICANT: David Lee

AGENT: Stan Field

LOCAL GOVERNMENT: San Mateo County

LOCAL DECISION: Approval with Conditions

PROJECT LOCATION: 2070 Cabrillo Highway, in the unincorporated Pescadero area of San Mateo County, APN 089-230-220.

PROJECT DESCRIPTION: Construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached accessory building, lap pool, pond, gazebo with a spa, and driveway, and installation of a septic system and water pipeline on a 84.49-acre lot.

APPELLANTS: Commissioners Sara Wan and Christina Desser, California Coastal Commission

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

STAFF RECOMMENDATION: Substantial Issue Exists; Denial

TABLE OF CONTENTS

| | |
|---|----|
| Summary of Staff Recommendation..... | 4 |
| Staff Notes | 5 |
| 1.0 Staff Recommendation on Substantial Issue..... | 5 |
| 2.0 Findings and Declarations..... | 6 |
| 2.1 Local Government Action..... | 6 |
| 2.2 Appellants' Contentions | 7 |
| 2.3 Appeal Process..... | 7 |
| 2.4 Filing of Appeal | 8 |
| 2.5 Project Location and Site Description | 8 |
| 2.6 Project Description..... | 10 |
| 2.7 Substantial Issue Analysis..... | 11 |
| 3.0 Staff Recommendation on De Novo Review..... | 18 |
| 4.0 Findings and Declarations..... | 18 |
| 4.1 Project Location and Revised Description..... | 19 |
| 4.2 Environmentally Sensitive Habitat Areas | 20 |
| 4.3 Land Use – Agriculture..... | 27 |
| 4.4 Visual Resources..... | 30 |
| 4.5 Development Review | 39 |
| 4.6 California Environmental Quality Act (CEQA) | 40 |

APPENDIX

Appendix A: Substantive File Documents

Appendix B: Referenced Policies of the San Mateo Local Coastal Plan

LIST OF FIGURES

Figure

- 1 Regional Location Map
- 2 Project Site Location
- 3 Assessors Parcel Map
- 4 Plot Plan
- 5 Faults
- 6 Soil and Agricultural Capability
- 7 Habitat Types
- 8 Site Plan
- 9 First Floor Plan
- 10 Second Floor Plan
- 11 Elevations and Perspectives
- 12 Elevation and Cross-Section Showing House Height
- 13 Water Line, Wells, and Septic System
- 14 Park Viewshed

| | |
|----|---|
| 15 | Alternative Building Site Locations |
| 16 | Berms, Site Plan for Site 2 |
| 17 | Berms, site Section Thru Berm B |
| 18 | Biological Constraints According to Applicant |
| 19 | Geological Constraints According to Applicant |
| 20 | Composite Constraints According to Applicant |
| 21 | Visual Constraints According to Applicant |
| 22 | Viewshed for Site 2 and Site 4 from Highway 1 and Año Nuevo |
| 23 | Camera Positions |
| 24 | Jurisdictional Wetland Delineation |
| 25 | Site 4 Constraints |
| 26 | Sensitive Habitat |
| 27 | Pond Locations |

LIST OF EXHIBITS

Exhibit

| | |
|---|---|
| 1 | San Mateo County's Conditions of Approval |
| 2 | Commission Notification of Appeal |
| 3 | Density Credits |

LIST OF CORRESPONDENCE

| | |
|--------------------|--|
| August 28, 1999 | Letter from Ronald Schafer, California Department of Parks and Recreation to San Mateo County Planning Division |
| September 21, 1999 | Letter from Damon DiDonato, Project Planner, San Mateo County to Ronald Schafer, California Department of Parks and Recreation |
| September 2, 2000 | Letter from Lennie Roberts, Committee for Green Foothills to Damon DiDonato, Project Planner, San Mateo County |
| September 21, 1999 | Letter from Damon DiDonato, Project Planner, San Mateo County to Lennie Roberts, Committee for Green Foothills |
| September 14, 1999 | Letter from Brian L. Hinman to Stan Field |
| September 15, 1999 | Letter from Stephanie Jennings and Paul Pfluke |
| September 16, 1999 | Letter from The Bolings to Stan Field |
| September 20, 1999 | Letter from Jon Kosek, to Stan Field |
| January 2000 | Letter from Rosalind Carol |
| January 9, 2000 | Letter from Alan DeMartini to the Coastal Commission |
| January 10, 2000 | Letter from Peter J. Metropulos to the Coastal Commission |
| January 12, 2000 | Letter from Robin Winslow Smith, Sequoia Audubon Society to the Coastal Commission |
| January 13, 2000 | Letter from Rusty Areias, California Department of Parks and Recreation to Peter Douglas, Executive Director, Coastal Commission |
| January 24, 2000 | Letter from Karen Maki to Sara Wan, Coastal Commission |
| February 1, 2000 | Letter from Anna Neal to Sara Wan, Coastal Commission |

SUMMARY OF STAFF RECOMMENDATION

SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified LCP.

San Mateo County (the County) approved with conditions a coastal permit for construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached guest house, lap pool, pond, gazebo with a spa, and driveway, plus installation of a septic system and water pipeline on a legal 84.49-acre lot. The appellants contend that the project is not consistent with the visual resources policies of the County's LCP.

Commission staff analysis indicates that the appeal raises significant questions regarding whether the residence, as approved by the County, would be sited and designed to protect coastal views in the manner required by the policies of the certified LCP. Commission staff recommends that the Commission find that the project, as approved by the County, raises a substantial issue with regard to conformance with the visual resources policies of the County's LCP.

The Motion to adopt the Staff Recommendation of Substantial Issue is found in Section 3.0.

COASTAL PERMIT APPLICATION: DENIAL

The staff recommends that the Commission deny the coastal development permit for the proposed project on the basis that it is inconsistent with the visual resources, sensitive habitat, and agricultural policies of the County's certified LCP. In particular, the LCP requires that development be sited in the least visible location consistent with all other LCP policies. Not only is the development proposed to be located in a site visible from a scenic road and other public viewpoints, it is also proposed to be located in habitat for threatened and endangered species (California red-legged frog and San Francisco garter snake) as well as prime agricultural lands and land suitable for agriculture. In addition, staff concludes that to comply with these policies of the LCP, the project would have to be relocated and significantly redesigned. Thus, the proposed project cannot now be conditioned to achieve consistency with the LCP and the applicant should reapply to the County for a relocated, redesigned project. Staff emphasizes, however, that it is feasible to relocate and redesign the house to comply with the certified LCP.

The Motion to adopt the Staff Recommendation of Denial is found in Section 1.0.

STAFF NOTES

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission will continue with a full public hearing on the merits of the project. If the Commission were to conduct a de novo hearing on the appeal, the applicable test for the Commission to consider would be whether the development, which is inland of the Pacific Coast highway, is in conformity with the certified LCP.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

PART 1 - SUBSTANTIAL ISSUE

1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

MOTION

I move that the Commission determine that Appeal No. A-2-SMC-99-066 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

STAFF RECOMMENDATION

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE

The Commission hereby finds that Appeal No. A-2-SMC-99-066 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

2.1 Local Government Action

In July 1997, the County of San Mateo approved CDP 97-0015 to drill an agricultural well on the subject parcel. In May 1998, the County approved CDP 97-0071 to convert the agricultural well to a domestic well. In May 1999, the subject application for construction of a single-family residence on site was filed with the County. The Planning Commission heard the project on September 22, 1999, and continued the matter to allow the applicant to respond to issues raised at the hearing. In response to the Planning Commission's concerns, the applicant changed the use of the accessory building from guest house to home office, and changed one room in the main residence from an office to a bedroom. The applicant was also required to prepare a landscape plan. Working with County Staff and representatives of the Committee for Green Foothills and the Año Nuevo State Reserve, the applicant submitted a landscape plan that provides for initial screening of 15 to 20 percent of all structures, with the ultimate goal of 50 percent screening at landscape maturity.

On November 9, 1999, the San Mateo County Planning Commission approved with conditions Coastal Development Permit (CDP) PLN 1999-00296 (Lee) for construction of a two-story, 6,500-square-foot single-family residence and associated development as further described in Section 2.5 below. The approval includes 28 special conditions, as listed in Exhibit 1 (San Mateo County 1999b). Conditions 14, 17, and 18 address visual resources. Condition 14 requires the applicant to submit color and material samples for approval by the Planning Director, and that the colors and materials blend in with the surrounding soil and vegetative color of the site. Condition 17 requires that the applicant apply an anti-reflective window coating to the south-western facing windows on all structures. Condition 18 requires the applicant to record a deed restriction on the property regarding maintenance of screening vegetation, color of exterior materials, and minimization of lighting. Other conditions of approval include: (1) submission and adherence to a drainage plan that meets or exceeds the standards of the San Mateo Countywide Stormwater Pollution Control Program, (2) replanting native vegetation, (3) erosion control during construction, (4) stocking the artificial pond with native species, (5) consultation with a qualified biologist, if construction is to be done between February 15 and August 1, to insure that no nesting raptors will be impacted by the project, (6) consultation with a qualified biologist, if construction is to be done between September 1 and March 30 to insure that no Monarch butterflies will be impacted by tree removal, (7)

archaeological monitoring, and (8) a deed restriction acknowledging adjacent agricultural uses, and other conditions. The local appeal period ended on November 24, 1999 and there were no local appeals.

2.2 Appellants' Contentions

Commissioners Sara Wan and Christina Desser appealed the County of San Mateo's decision to approve the project. The appellants contend that the project is not consistent with the visual resources policies of the County's LCP. The appellants' contentions are summarized below, and the full text of the contentions is also included as Exhibit 2.

The appellants assert that the subject development, which is sited near the top of a hill within the scenic corridor of State Highway 1 and is visible from a State Scenic Road (State Highway 1) and Año Nuevo State Reserve, is inconsistent with San Mateo County Land Use Plan (LUP) visual resources policies 8.5, 8.17c, 8.18b, and 8.20. These policies include requirements that new development:

- be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserve the visual and open space qualities overall;
- be controlled "to avoid the need to construct access roads visible from State and County Scenic Roads";
- be located where screening minimizes the visibility of development from public roads; and
- be related in size and scale to adjacent buildings and landforms.

2.3 Appeal Process

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603.)

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal of a County approval that is not located between the sea and the first public road paralleling the sea are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program.

The single-family house approved by the County of San Mateo is appealable to the California Coastal Commission because it is not the principally permitted use within the Planned Agricultural District (PAD), in which the project is sited.

2.4 Filing of Appeal

The Commission received the Notice of Final Action for the County's approval of the subject development on December 2, 1999. In accordance with the Commission's regulations, the 10-working-day appeal period ran from December 3 through December 16 (14 CCR Section 13110). The appellants (Commissioners Sara Wan and Christina Desser) timely submitted their appeal to the Commission office on December 16, 1999, within 10 working days of receipt by the Commission of the Notice of Final Local Action (see Exhibit 2). The local record was requested on December 17, but was not received in time to complete a staff recommendation. On January 14, 2000, the Commission opened a hearing on the substantial issue determination for the appeal. The Commission continued the hearing, suspending final action on the appeal pending discussions between the applicant and staff. In addition, on January 27, 2000, the applicant waived their right for a hearing to be set within 49 days of the filing of the appeal in order to develop and provide additional material for consideration prior to Commission action on the appeal. The appeal was scheduled to be heard by the Commission on August 9, 2000. The applicant postponed this hearing pending further discussions between the applicant and staff.

2.5 Project Location and Site Description

The project approved by the County is located inland of Highway 1, about ten miles south of Pescadero, in the unincorporated portion of San Mateo County, California (Figure 1). The proposed building site is on the top of a southwest-facing hill overlooking Año Nuevo State Reserve (Figure 2). The Assessor's Parcel Number is 089-230-220 as shown on Figure 3. The property is rectangular, approximately 1,000 feet in width along the front and rear property lines and 3,000 feet in length along the side property lines.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District (PAD). The proposed single-family dwelling complies with the PAD zoning of the lands within the coastal zone, which allows one density credit or one residential unit on the property. The PAD zone allows a maximum building height of 36 feet, which is the proposed height of the Lee house. Setbacks for the PAD require a front yard of 50 feet, side yards of 20 feet, and rear yard of 20 feet. A single-family residence is not allowable as a principally permitted structure within the PAD, but may be allowed with the issuance of a Planned Agricultural Permit. The County determined that the project was in compliance with the substantive criteria for issuance of a Planned Agricultural Permit (Section 6355 of San Mateo County's Zoning Regulations). The substantive criteria address protection of agricultural uses on land in the PAD. The criteria includes minimizing encroachment on land suitable for agricultural use, clustering development, availability of water supply, preventing or minimizing division

or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

The elevation of the parcel ranges from approximately 160 feet above mean sea level (msl) along Highway 1 in the western portion of the parcel and 390 feet above msl in the eastern portion of the site along the boundary with Santa Cruz County. The property has flat to gradual slopes of approximately 10 percent on most of the parcel with a gradual uphill grade to the east, and steeper slopes of approximately 25 percent along a ravine that crosses the lot (see Figure 4). The proposed building site is on a flat terrace between 380 and 390 feet above msl.

The parcel is within the central region of the Coast Ranges Geomorphic Province, and is underlain by marine and continental sedimentary rock units that have been deposited, folded, faulted, and uplifted to form the Santa Cruz Mountains (Romig Consulting Engineers 1999). The active San Gregorio Fault crosses the parcel and lies parallel to and approximately 800 feet from Highway 1. The Alquist-Priola Special Studies Zone boundary extends approximately 250 feet south of the fault and approximately 600 feet north of the fault (Figure 5). The parcel is within an active seismic area and may be subject to strong ground shaking. The site also is located within an ancient landslide complex approximately 4,000 feet in length and 1,500 feet in width. Romig Consulting Engineers (1999) did not observe any indications of any recent activity of the slide, and concluded that the landslide movement has ceased, and would be unlikely to recur. The potential for liquefaction at the site is low (Romig Consulting Engineers 1999). The Commission's staff geologist has reviewed the Romig report and concurs with these conclusions.

Soils at the site are primarily Santa Lucia loam, with Lockwood loam soils in the western portion of the parcel between Highway 1 and the pond, and Dublin clay soils in the ravine (Figure 6). Most of the Santa Lucia soils pose slight to moderate erosion potential, with those in the southeastern portion of the lot posing moderate to high erosion potential. The erosion hazard of the Lockwood and Dublin soils is slight (US Department of Agriculture 1961). The 14 acres in which the Lockwood soils are found are considered prime agricultural soils. In addition, the Santa Lucia soils (SaC2) and Dublin clay (DuC2) meet the definition of prime agricultural land under LUP Policy 5.1c., which defines prime agricultural lands as "land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture." In addition, as historic grazing land and land which has the potential to be used for grazing in the future, these soils would be considered "lands suitable for agriculture" under the definition in LUP Policy 5.3, which includes "lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting."

The parcel includes diverse habitat types (Figure 7). Currently, a majority of the property is annual grassland with scattered shrubs and tree saplings due to earlier use of the site for agricultural activities. Riparian wetland, pond, and coastal scrub vegetation are found in the depressions. Eucalyptus forest borders the northern and eastern property boundaries

and mixed stands of Monterey pine and Douglas fir border the southern boundary. These habitats support many plant and wildlife species, including some special status species. One California red-legged frog, a federally-listed threatened species, was observed in the pond on the western portion of the property. A yellow warbler, a California Species of Special Concern, was also observed in the willows adjacent to the pond (Thomas Reid Associates 1999). Monarch butterflies, which are included in California Department of Fish and Game's Special Animals list, have been recorded within the Monterey pine grove just off the southeastern edge of the property. The eucalyptus and Monterey Pine woodland on the property provide potential roosting habitat for this species. The native Monterey pine, itself, is listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"). The native range for Monterey pine is limited to the stands near Año Nuevo, including the one bordering the parcel, and three other isolated locations. The Año Nuevo stands are the northernmost extent of the native Monterey pine forests. These pines not only have a limited distribution but also are threatened by a fungus, pitch canker. The Año Nuevo stand, estimated to have once covered about 18,000 acres, has been reduced to approximately 1,500 to 2,000 acres (Staub, staff communication).

An archaeological survey of the northeastern portion of the parcel and along a proposed water pipeline was conducted by a professional archaeologist in June and July of 1999, as recommended by the California Historical Resources Information Center at Sonoma State University. No prehistoric cultural materials or historic materials were found. Two locations for trenching could not be surveyed because of dense vegetation, and the consultant recommended that a professional archaeologist be present to monitor the unsurveyed areas if excavation begins (San Mateo County 1999a).

2.6 Project Description

The project approved by the County consists of construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached guest house, lap pool, pond, gazebo with a spa, and driveway, plus installation of a septic system and water pipeline on a legal 84.49-acre lot (Figures 8 through 11: first and second floor plans). The County-approved garage, utilities, lap pool, gazebo, patios, and decks, which comprise an additional 7,990 square feet of floor space, are not included in the 6,500 square feet of living space. The living space includes two floors, a 5,000 square foot ground floor and a 1,500 square foot second floor. The second floor is not included in Table 1 below because it would not involve any additional disturbance than is required for the first floor. Similarly, the 1,500 square-foot garage and 800 square-foot utilities area are not included in the area of disturbance because they would be located underground, beneath the patio, and would not disturb any additional areas. The approved pond, walkway, and cultivated garden comprise another 18,500 square feet of developed area. The driveway would be 600 feet long, 16 feet wide (12 feet wide with two-foot shoulders on either side), for a total of 9,600 square feet. The gross disturbed area would be 40,210 square feet. The table below presents each aspect of the proposed project and the associated square feet for the County-approved project.

Table 1. Area of Disturbance for the County-Approved Project

| Type of Disturbance | Square Feet |
|----------------------------|--------------------|
| Residence Living Space | 5,000 |
| Accessory building | 600 |
| Septic System | 820 |
| Pool | 160 |
| Gazebo | 250 |
| Patios | 4,500 |
| Decks | 780 |
| Pond | 7,500 |
| Walkway | 1,000 |
| Cultivated garden | 10,000 |
| Driveway | 9,600 |
| TOTAL | 40,210 |

Source: Field 2000a.

At its highest elevation from natural grade, the house would be approximately 36 feet in height (Figure 12). A water line and septic system are proposed on-site, and an existing well,¹ as shown in Figure 13, would be used. Well A does not have adequate capacity to meet fire regulations (Stan Field, staff communication). An approximately 2,800-foot long water line would connect from a well pump at the base of the parcel near Highway 1 to a well at the top of the parcel. Another water line, approximately 20 feet long would connect from the well at the top of the site to the house. Access to the site is provided by an existing private access road from Highway 1 that serves several properties on the hill. A driveway would be extended from the shared road to the proposed house. The approved residence, guesthouse, and gazebo have redwood siding and dark gray roofing materials and are of a modern design.

2.7 Substantial Issue Analysis

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

The two contentions raised in the appeal present potentially valid grounds for appeal in that they allege the projects' inconsistency with policies of the certified LCP.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

¹ An application to drill an agricultural well on the parcel was filed on July 1997 (File No. CDP 97-0015). A well permit was issued from County Environmental Health Division (Permit Number 13016) in November 1997. The well was certified at 15 gallons per minute. In May 1998 the County approved an application to convert the agricultural well to a domestic well (File No. CDP 97-0071).

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

2.7.1 Allegations that Raise Substantial Issue

| |
|--|
| <p>The Commission finds that the appeal raises a <u>substantial issue</u> with respect to conformance of the approved project with the visual and scenic resource policies of the San Mateo County certified LCP.</p> |
|--|

The appellants assert that the subject development, which is sited near the top of a hill within the scenic corridor of State Highway 1 and is visible from a State Scenic Road (State Highway 1) and Año Nuevo State Reserve, is inconsistent with San Mateo County LUP visual resources policies 8.5, 8.17c, 8.18b, and 8.20. These policies are presented below and are also cited in Appendix B.

The development site approved by the County is on the top of a southwest-facing hillside east of Highway 1, in the unincorporated Pescadero area of San Mateo County. This

portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf surrounded by forested lands. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer. It is one of the most spectacular, scenic coastal areas in San Mateo County. The California Department of Parks and Recreation's brochure for Año Nuevo State Reserve describes the reserve and vicinity as follows:

Fifty-five miles south of San Francisco and the Golden Gate, a low, rocky, windswept point juts out into the Pacific Ocean. The Spanish maritime explorer Sebastian Vizcaino named it for the day on which he sighted it in 1603 - Punta de Año Nuevo - New Year's Point.

Today, the point remains much as Vizcaino saw it from his passing ship - lonely, undeveloped, wild. Elephant seals, sea lions, and other marine mammals come ashore to rest, mate, and give birth in the sand dunes or on the beaches and offshore islands. It is a unique and unforgettable natural spectacle that hundreds of thousands of people come to witness each year.[Emphasis added]

There are very few structures visible from Highway 1 and the State Reserve within approximately ten miles of the site. The two closest developments that are visible from Highway 1 are farm buildings relatively near the highway. The buildings associated with the berry farm to the south are screened by topography and vegetation so that mostly just the rooftops are visible. The buildings to the north are mostly farm buildings that are very different from the proposed development. The 6,000 square-foot Boling residence is inland (to the southeast) of Lee at APN 057-061-17 on 14 acres. The Boling house is located within the view corridor of Highway 1, but is less visible than the County-approved Lee residence would be. The most prominent structure visible from within the Park is the Año Nuevo visitor's center. However, the visitor's center approximates a large agricultural barn and is compatible with the overall Park ethic. Therefore, the Lee house would be the first very large residence not associated with agriculture in the immediate area that would be **readily** visible from the highway, and would be visible from distance views at Año Nuevo State Reserve.

The parcel ranges in elevation from approximately 160 to 390 feet above mean sea level (msl). The proposed building site is located on a flat grassland terrace between 380 and 390 feet above msl. Much of the property is located within the Highway 1 and Año Nuevo State Reserve viewshed, with one of the most prominent locations being the top of the hill upon which the proposed development would be located.

In its County-approved location on top of the hill, and given its large size and two-story height, the approved development would be visible to vehicles traveling south and north on Highway 1. The viewshed of the proposed project site is presented in Figure 14. The house extends 256 feet across facing Highway 1 and Año Nuevo State Reserve, while the depth of the house is 36 feet at its widest.

The approved house site would also be visible from trails in Año Nuevo State Reserve. State Reserves are the highest level of protection classification of the California State Park System. The Public Resources Code describes State Reserves as “consisting of areas embracing outstanding natural and scenic characteristics of statewide significance” (California Department of Parks and Recreation 2000). In addition, Año Nuevo Point is designated as a National Natural Scenic Landmark. Año Nuevo State Reserve currently is visited by over 200,000 people from around the world annually with higher visitation rates expected in the future (California Department of Parks and Recreation 2000, Enge 1999). Visitors to the Reserve come to see the thousands of elephant seals that breed there as well as to enjoy pristine coastal views looking inland that are not possible from many locations along the coast (Enge 1999). The proposed site is visible from numerous locations on the main public trail in the Reserve. It is also visible from the Outdoor Education road/trail coming in from Año Nuevo point and from the dunes near the Wildlife Protection Area Trail. According to California Department of Parks and Recreation, from the Reserve “visitors view pristine coastal mountains with no current intrusive visual impacts” (California Department of Parks and Recreation 2000).

As discussed further below, the Commission finds that the project as approved by the County raises a substantial issue with regard to consistency with a number of LCP policies regarding protection of visual and scenic resources.

LUP Policy 8.5: Development Where Visible from a Scenic Road and Public Viewpoint When Alternatives Exist

A substantial issue exists concerning the conformity of the proposed development with LUP Policy 8.5, which states:

Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.

Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.

The proposed single-family home is sited at the highest point of the property affording panoramic views of the coast. As sited at this location on the property, the proposed development would be highly visible from Highway 1, which is a state scenic road, and from Año Nuevo State Reserve, a recreation area and public viewpoint. Most of the property, which comprises 84.48 acres, is visible from public roads and trails. However, the property includes two intermediate ridge lines and existing, mature trees and other vegetation that block views of some portions of the property from the highway and the reserve. Consequently, the property contains potential alternative building sites that are

less visible from the highway and reserve. The findings for the County's approval of the project include an analysis of only one potential alternative site.

In addition to the alternative site considered by the County, the 84.48-acre lot contains other potential alternative building sites that would be less visible from the highway and the reserve. These sites include a site on the southeast side of the property above the ravine, a site on the southeast corner of the property that could be screened by Monterey pine forest, and a site behind the first ridge on the southeast side of the parcel (see Figure 15, Sites 4, 3, and 6, respectively). In fact, as further discussed in section 1.1.1, for purposes of any de novo consideration of the project by the Commission, the applicant has re-sited the development approximately 215 feet to the south of the site approved by the County to better screen the structures behind existing trees. Because potential less visible alternative building sites on the property were not considered, the County's findings that the development is least visible from State and County Scenic Roads and is least likely to significantly impact views from public viewpoints as required by LUP Policy 8.5, is not supported by the evidence in the record.

Therefore, the Commission finds that the appeal raises substantial issues of conformity of the approved project with LUP Policy 8.5 concerning siting of the development because the County only considered one alternative site when other potentially less visible alternatives exist and because the County's determination that the approved development would be located on the portion of the property that is least visible from scenic roads and public viewpoints lacks factual support.

LUP Policy 8.18: Project Not Designed to be Subordinate to the Environment or to Minimize the Visibility of Development from Scenic Roads and Other Public Viewpoints

LUP Policy 8.18b states:

Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site.

Existing vegetation and landforms would not screen the development as approved by the County. The County's conditions require that landscaping be designed to screen 50 percent of the structures from Highway 1 and trails in Año Nuevo State Reserve. The project as approved would screen only 15 to 20 percent of the development initially, and would require many years of landscaping growth before a maximum of 50 percent screening would be achieved, thus failing to meet the requirement for minimizing visibility. Therefore, the Commission finds that a substantial issue exists concerning the conformity of the County-approved development with LUP Policy 8.18b because in its prominent location at the top of a hill fronted by a field in a virtually undeveloped scenic area, additional screening could be added to minimize the visibility of the development from Highway 1 and Año Nuevo State Reserve.

LUP Policy 8.20: Structure Does Not Relate in Size and Scale to Adjacent Buildings or Landforms

LUP Policy 8.20 states:

Relate structures in size and scale to adjacent buildings and landforms.

Policy 8.20 requires development to be related in size and scale to adjacent buildings and landforms. There are very few structures visible from either Highway 1 or the State Reserve within approximately ten miles of the site. The two closest are farm buildings relatively near the highway. The buildings associated with the berry farm to the south are screened by topography and vegetation so that mostly just the rooftops are visible. The buildings to the north are mostly farm buildings that are very different from the proposed development. Structures visible from Año Nuevo include a lumber operation, a cement plant, and the Boling residence. The Boling house (southeast of the proposed Lee house) is also greater than 6,000 square feet and located within the view corridor of the Highway, but its visibility is tempered somewhat by its greater inland distance and relatively narrower view corridor between the house and the highway as compared to the proposed Lee house. In fact, the existence of this Boling house helps to provide a benchmark for understanding the potential for adverse impacts from such large residential development within this critical viewshed area. The Lee house would thus be the first very large residence not associated with agriculture in the immediate area that would be **readily** visible from the highway. Approval of this development could prejudice the County's ability to apply LUP policy 8.20 in the future. Thus, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with LUP Policy 8.20.

2.7.2 Allegation that Does Not Raise Substantial Issue

LUP Policy 8.17: Avoiding Construction of Access Roads Visible from State and County Scenic Roads

LUP Policy 8.17 states:

Control development to avoid the need to construct access roads visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

The project as approved by the County includes a 600-foot-long, 12-foot-wide driveway with two-foot shoulders to access a shared road at the property line. As depicted on Figure 4, most of the driveway would be hidden behind the house or behind trees. Therefore, the Commission finds that the project does not raise a substantial issue with regard to conformance with LUP Policy 8.17.

2.7.3 Conclusion

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with the visual and scenic resource policies of the San Mateo County certified LCP.

PART 2 - DE NOVO ACTION ON APPEAL

PROCEDURE

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.

INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS

The Commission hereby incorporates by reference the Substantial Issue Findings above as if set forth in full.

3.0 STAFF RECOMMENDATION ON DE NOVO REVIEW

MOTION

I move that the Commission approve Coastal Development Permit Application No. A-2-SMC-99-066.

STAFF RECOMMENDATION OF DENIAL

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of the County of San Mateo certified Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

4.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

4.1 Project Location and Revised Description

As noted in the Project Location and Site Description section of the Substantial Issue portion of this report (which is hereby incorporated by reference), the project site is located inland of Highway 1, in the unincorporated Pescadero area of San Mateo County near the top of a southwest-facing hill overlooking Año Nuevo State Reserve.

Since the project was initially approved by San Mateo County and appealed to the Commission, the applicant has made changes to the project. Coastal Commission staff discussed with the applicant that one of the primary objectives in making the project consistent with the LCP would be to site it in the least visible location on the 84.48-acre parcel, consistent with all other LCP policies, and reduce the size and height of the house so that its visual impact is minimized. In response to this and other scenic resources policies, the applicant revised his proposed project and reviewed alternative sites (see Figure 15) suggested by the Coastal Commission staff. For instance, the primary building mass has been moved 215 feet to the southeast and the plan of development has been flipped so that the accessory building (formerly referred to as guest house) would be moved from the north side to the south side (Site 2) as described below in the alternatives analysis section of this report. The house would still be located at the top of the property at approximately 380 to 390 feet above msl.

The applicant has also revised the project to plant a row of Monterey cypresses on the lower southeasterly ridge of the property to partially screen the development from Highway 1. There is no specific planting plan and the size of the plantings when installed has not been determined, but some possibilities are described in the arborist's report (Fong 2000a). Under ideal or good growing conditions the cypress would grow approximately 3.5 feet per year (Fong 2000a).

The applicant also proposes to construct berms and lower the height above natural grade of the residences by ten feet through excavation (Figures 16 and 17). Two berms would be placed immediately in front of the residence with a gap in between them allowing a view corridor from the center of the main portion of the structure. The berms, varying in height to a maximum of 12 feet, would be constructed from soil excavated for the house and pond (6,000 to 7,000 cubic yards of cut). Berm A is 200 feet long and 60 feet wide at its widest portion, and would require approximately 1,500 cubic yards of fill. Berm B is a total of 406 feet long, consisting of a narrow, lower portion that is 188 feet long and a higher (12 feet maximum) portion that is 180 feet long and 110 feet wide at its maximum. The berms would be planted with native grassland species and coyote brush (Field 2000). The soil removed from the house site and used for creation of the berms would lower the ground level at the house site from 385 feet to 375 feet (Figure 16). No changes to the design of the house are proposed.

The applicant corrected the calculations for the ground floor area, which is proposed to be 4,500 square feet. Thus, the proposed residence is 6,000 square feet rather than 6,500 square feet as approved by the County (Field 2000a). The accessory building has been enlarged to 700 square feet from 600 square feet. The patio adjacent to the accessory building has been removed, reducing the patios to 4,000 square feet. To accommodate the berms, the artificial pond has been reduced from 7,500 square feet to 6,000 square feet. The applicant has indicated that he no longer proposes the cultivated garden. Table 2 shows the area of disturbance for the proposed project.

Table 2. Area of Disturbance for the Proposed Project

| Type of Disturbance | Square Feet |
|----------------------------|--------------------|
| Residence Living Space | 4,500* |
| Accessory building | 700* |
| Septic System | 820 |
| Pool | 160 |
| Gazebo | 250 |
| Patios | 4,000* |
| Decks | 780 |
| Pond | 6,000* |
| Walkway | 1,000 |
| Driveway | 4,800* |
| TOTAL | 23,010 |

Source: Field 2001.

*These numbers have been corrected or revised for the de novo review as explained above in the text.

4.2 Environmentally Sensitive Habitat Areas

The Commission denies the permit application because the proposed project does not conform to the LCP policies concerning the protection of the habitat areas of the California red-legged frog and the San Francisco garter snake.

4.2.1 Issue Summary

Much of the project site is considered sensitive habitat. The site includes critical habitat for San Francisco garter snake and California red-legged frog, as well as habitat for other sensitive species, wetlands, and riparian areas.

4.2.2 Standard of Review

Chapter 7 of the LCP contains policies that are very protective of sensitive habitats. In general, these LCP policies define and protect sensitive habitats, allowing only a limited type and amount of development in or near these areas. The full text of LCP policies discussed in this section are cited in Appendix B.

LUP Policy 7.1 defines sensitive habitats, which “include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.” LUP Policy 7.3 provides development standards for projects within or adjacent to sensitive habitats. The uses permitted in sensitive habitat are listed in LUP Policy 7.4. LUP Policy 7.5 describes appropriate permit conditions to protect such areas from adverse impacts.

LUP Policies 7.7 through 7.13 address riparian corridors and their buffer zones and LCP Policies 7.14 through 7.19 address wetlands and their buffer zones.

LUP Policies 7.32 through 7.36 address designation of habitats, permitted uses, permit conditions, and preservation of critical habitats that apply to likely rare and endangered species on the site. LUP policies 7.34 and 7.36 require that a qualified biologist prepare a report that

discusses the natural and physical requirements of all endangered species on the property. LCP policy 7.36 specifically protects San Francisco garter snake habitat, including migration corridors.

4.2.3 Discussion

Introduction

Much of the project site is sensitive habitat (Figure 26). The applicant has conducted a number of surveys and consulted with specialists in various biological fields that have documented the presence of habitat for listed species and other special status species and wetlands on the property (Thomas Reid and Associates 2000a, 2000b, and 2000c, Fong 2000a and 2000b, Staub 2000, Dayton 2000, McGinnis 2000). The sag pond in the southwestern portion of the site, its riparian fringe, and the entire grassland-scrub savanna, which covers most of the center portion of the site, is considered critical habitat for the San Francisco garter snake and California red-legged frog (McGinnis 2000). On site visits with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), representatives from both agencies concurred with this assessment of critical habitat. Wetlands on the site include the sag pond, another smaller pond in the northern portion of the site, and two swales with riparian and coastal scrub vegetation. The sag pond was probably formed by seismic activity in the distant past (at least 2,000 years) rather than damming of drainage ravines as was done to create many other ponds in the vicinity. It is a particularly important wetland feature because it may be habitat for one of the oldest San Francisco garter snake and California red-legged frog populations in the area (McGinnis 2000). Monterey pine forest is located along the eastern property boundary. The pine forest and the eucalyptus along the western and northern portions of the site may provide habitat for Monarch butterflies.

In addition, the property provides potential habitat for several other special status species. A yellow warbler was observed in the willows adjacent to the sag pond. No other special status species were observed at the property. No special status plant species are expected to be found in the grassland areas where the proposed and alternative development sites are located. Sensitive species observed at the site or likely to use habitat at the site are listed below:

| Common Name | Scientific Name | Federal Status | State Status | Presence at Site |
|----------------------------|--|----------------------------|-------------------------|------------------|
| California red-legged frog | <i>Rana aurora draytonii</i> | Threatened | Special Concern Species | Confirmed |
| San Francisco garter snake | <i>Thamnophis sirtalis tetrataenia</i> | Endangered | Endangered | Likely |
| Western pond turtle | <i>Clemys marmorata</i> | Species of Special Concern | Special Concern Species | Likely |
| Yellow warbler | <i>Dendroica petechia</i> | None | Special Concern Species | Confirmed |
| Loggerhead shrike | <i>Lanius ludovicianus</i> | None | Special Concern Species | Likely |
| Cooper's hawk | <i>Accipiter cooperi</i> | None | Special Concern Species | Likely |
| Sharp-shinned hawk | <i>Accipiter striatus</i> | None | Special Concern Species | Likely |

| | | | | |
|-------------------|------------------------|------|------|-----------|
| Monarch butterfly | <i>Danaus plexipus</i> | None | None | Confirmed |
|-------------------|------------------------|------|------|-----------|

Source: Thomas Reid Associates 1999.

Any portion of the site that provides habitat for the special status species listed above is considered sensitive habitat in accordance with LUP Policy 7.1, which defines sensitive habitat, among additional factors, as “habitats containing or supporting ‘rare and endangered’ species as defined by the State Fish and Game Commission. In particular, the areas considered critical habitat for the San Francisco garter snake and the red-legged frog are sensitive habitat. The sensitive habitats map for the LCP indicates that rare, endangered, or unique reptiles and amphibians and plants have been found near the Lee property. LUP Policy 7.36 includes the riparian and wetland habitats as well as migration corridors of the San Francisco garter snake as sensitive habitat. The wetlands and riparian areas are also categorically defined in the LCP as sensitive habitats (LUP Policies 7.1, 7.7, 7.8, 7.14, and 7.15).

Native Monterey pine found near the San Mateo-San Cruz County line is considered a unique species under LUP Policy 7.48, and habitat for unique species is considered sensitive habitat under LUP Policy 7.1. Therefore, the Monterey pine forest on the site is also considered sensitive habitat in accordance with LUP Policy 7.1.

California red-legged frogs and San Francisco Garter Snakes

Background

California red-legged frogs have been extirpated or nearly extirpated from over 70 percent of their former range and are federally listed as threatened. Habitat loss, competition with and direct predation by exotic species, such as bullfrogs, and fragmentation of habitat due to encroachment of development are the primary causes for the decline of this species throughout its range. The remaining populations are primarily in central coastal California and are found in aquatic areas that support substantial riparian and aquatic vegetation and lack non-native predators. Habitat for red-legged frogs is typically deep-water pools with fringes of dense, emergent vegetation or dense shrubby vegetation, such as cattails and willows. Frogs hibernate in small mammal burrows, leaf litter, or other moist sites in or near (within a few hundred feet of) riparian areas (USFWS 1994, USFWS 1996, cited in NatureServe 2000). According to the proposed rule designating critical habitat for the red-legged frog, the project site is within critical habitat Unit 14, San Mateo-Northern Santa Cruz Unit (50 CFR Part 17, September 11, 2000). Although this rule is not finalized at this time it is important to note the physical and biological features that are considered essential to the conservation of the species, as cited below:

In summary, the primary constituent elements consist of three components. At a minimum, this will include two (or more) suitable breeding locations, a permanent water source, associated uplands surrounding these water bodies up to 150 m (500 ft) from the water's edge, all within 2 km (1.25) miles of one another and connected by barrier-free dispersal habitat that is at least 150 m (500 ft) in width. When these elements are all present, all other suitable aquatic habitat with 2 km (1.25 mi.), and free of dispersal barriers, is also considered critical habitat.

The sag pond provides habitat for California red-legged frogs. During a field survey on July 16, 1999, one adult red-legged frog was observed on the edge of the pond and another was heard calling from the willows near the pond. This pond most likely provides important breeding

habitat for the frog (Thomas Reid Associates 1999). McGinnis (2000) describes the importance of this pond and adjacent habitat:

Indeed, if the assumption that the project site pond is actually an old sag pond, the SFGS [San Francisco garter snake] and CRF [California red-legged frog] population at this site may be one of the oldest in the area. My 1989 life history study of the SFGS for the California Department of Fish and Game (CDFG) was conducted at two sag ponds on a ranch near La Honda, CA. These were chosen because sediment core samples analyzed at Stanford University revealed that these ponds were at least 2,000 years old. I and CDFG herpetologist John Brode felt the SFGSs at this site would best represent the entire current population, and this may also be true for the project pond site.

In addition, red-legged frogs have been observed at three nearby ponds. The first pond is on the Hinman property approximately .5 mile to the northeast the sag pond on the Lee property. The second pond is on the Pfluke property, approximately 1,000 feet north of the Hinman pond, and again approximately .5 mile from the sag pond. The third pond is approximately 550 feet to the north of the sag pond (Figure 27). Another pond in Año Nuevo Creek, which is 1,500 feet southwest of the Hinman pond, may provide habitat for red-legged frogs, but the species has not been observed there. The land between this triad of ponds, with no structures between them or major barriers, provides exactly the dispersal habitat that is considered critical habitat by USFWS in its proposed rule. When lines are drawn between the ponds with a minimum width of 500 feet most the Lee property northeast of the sag pond would be considered critical habitat. Furthermore, there is an in-stream pond approximately 1,500 feet to the southwest of the Hinman pond in Año Nuevo Creek; no red-legged frog have been identified there, but this may provide habitat as well.

San Francisco garter snakes are federally and state listed as endangered. The San Francisco garter snake's preferred habitat is densely vegetated ponds near open hillsides where it can sun itself, feed, and find cover in rodent burrows. The species is extremely shy, difficult to locate and capture, and quick to flee to water when disturbed. On the coast, the snake hibernates during winter in rodent burrows, and may spend the majority of the day during the active season in the same burrows. San Francisco garter snakes have been found up to 590 feet away from water in rodent burrows on dry, grassy hillsides (NatureServe 2000). McGinnis (2000) recorded, in 1988, one adult male traveling over a ridgeline between two sag ponds that were approximately 1,320 feet apart.

California red-legged frogs are an essential prey species to the San Francisco garter snake, and the snakes have not been found in areas where red-legged frogs are absent. In addition, newborn and juvenile San Francisco garter snakes depend heavily on Pacific tree frogs. Adult snakes may also feed on juvenile bullfrogs. The decline of this species is due principally to habitat loss, the loss of red-legged frog, illegal collection, and the introduction of bullfrogs. Adult bullfrogs prey on both San Francisco garter snakes and California red-legged frogs.

As described above, the habitats for San Francisco garter snakes and red-legged frogs overlap. The sag pond provides habitat for the San Francisco garter snake as well as red-legged frog. According to McGinnis (2000) "regular use of upland grassland/scrub habitats had also been documented for the SFGS." McGinnis (2000) concludes with regard to habitat at the Lee property:

*When all of the preceding facts and biologically based assumptions are applied to the project site, **the pond, its riparian fringe, and the entire upland grassland-scrub savannah area qualifies as critical habitat for both the SFGS and the CRF.** [Emphasis added]. In addition, the seasonal wetland swale through this portion of the site may very well serve as a primary movement pathway for both snakes and frogs which occasionally wander to and from CRF ponds on properties immediately north of this site.*

Impacts and Consistency with Applicable LCP Policies

The proposed site (Site 2) would impact grasslands that are habitat for San Francisco garter snakes and California red-legged frogs. According to the applicant's consultant and San Francisco garter snake and California red-legged frog expert, Sam McGinnis (McGinnis 2000), although the "proposed house sites would occupy a very small fraction of the total site acreage, it would never-the-less negate a small amount of upland retreat habitat for the SFGS and the CRF. Given the aforementioned significance of this property to the conservation of both special status species in this area, even a small loss of critical habitat must be viewed as a potentially significant adverse impact." In addition, any residential development brings with it noise, lights, pets, and general activity that may disturb frogs and snakes and/or lead directly to injury and mortality (e.g., predation from domestic cats). Construction of the berms would temporarily impact the dispersal corridor. Trenching necessary for installation of the 2,800-foot long water line would also temporarily impact San Francisco garter snake and red-legged frog habitat. As proposed, the water line would cross through the northwestern portion of the sag pond, which is a wetland as well as habitat for the listed snake and frog.

LUP Policies 7.1 and 7.36 define the San Francisco garter snake/California red-legged frog habitat as sensitive habitat. Therefore, the proposed house site (Site 2) would be located in sensitive habitat.

LUP Policy 7.4 permits only resource-dependent uses in sensitive habitats, and residential development is not considered resource-dependent in the LCP. LUP Policy 7.33 describes very limited types of uses that are permitted in habitats of rare and endangered species, and does not include residential development, as cited below:

Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

Thus, the proposed project is in direct conflict with LUP Policies 7.4 and 7.33.

LUP Policy 7.3 prohibits any land use or development that would have a significant adverse impact on sensitive habitat areas, and requires adjacent development to be sited and designed to avoid impacts and maintain the biologic productivity of the habitats. Because the proposed house site is in sensitive habitat, the proposed development is inconsistent with LUP Policies 7.3. In addition, as discussed further below, the impermissible impacts to sensitive habitat can be avoided by siting the house outside sensitive habitat (see discussion of alternative site below).

LUP Policy 7.36 protects habitat for San Francisco garter snake. LUP Policy 7.36a prohibits development "where there is known to be a riparian or wetland location for the San Francisco garter snake," except for man-made impoundments, which does not apply in this case with the

sag pond, a naturally-formed pond. The development is inconsistent with LUP Policy 7.36a. because the water line is proposed to cross through the sag pond wetlands. The sag pond meets the definition of wetlands under LUP Policy 7.14. Although San Francisco garter snakes have not been positively identified at the sag pond, Sam McGinnis concludes that "... given the previous consistent findings of SFGSs at all similar ponds in this area, the good travel corridor between this pond and the Año Nuevo Ranch pond complex which the season drainage swale provides, and the assumption that the sag pond may have been in existence for many centuries, it is my professional opinion that a population of SFGS is present at this site." (McGinnis 2000). The proposed water line would also be inconsistent with LUP Policy 7.16 because it is not a permitted use in wetlands. Although pipes that serve the public are allowed to be buried in wetlands, the proposed private water line would not be consistent. To be consistent with LUP Policy 7.16 and 7.18, which defines buffer zones of wetlands, the water line would need to be moved 100 feet from the wetlands. To be consistent with LUP Policies 7.36 as well as 7.16, a well or wells should be located near the residence to eliminate the need for the long water line crossing the length of the property. Any required water line(s) should not be located within 100 feet of any wetlands.

In addition, the proposed residence and driveway would be located within the migration corridor of San Francisco garter snake and would therefore be inconsistent with LUP Policy 7.36b, which requires mitigation measures that would provide appropriate migration corridors of San Francisco garter snakes. As discussed above, San Francisco garter snakes and California red-legged frogs likely migrate between the ponds on the project site and the Hinman and Pfluke ponds.

The existing unpaved access road, now exclusively by the existing Boling residence to the southeast, bisects the migration corridor between the Hinman and Lee ponds. Any increase in vehicular traffic along both the access road and driveway, would potentially cause frog and snake mortality. The current edition of the Trip Generation handbook by the Institute of Transportation Engineers (1997) estimates that a single-family detached dwelling generates an average of 10 trips per day on weekdays and Saturdays, with nine trips per day on Sundays. The handbook notes that the data used in their studies varies widely in terms of dwelling unit size, price, and location, and ranges from five to 22 average trips on weekdays. In addition, the handbook states that within this group, single-family units that were larger and further away from the corresponding central business district generated a higher number of trips than units that are smaller and closer to the central business district. Based on these data it is reasonable to assume that the proposed large residential development in a remote location (approximately 12 miles from the Pescadero town center) would generate more vehicular trips than the average of ten trips per day of an average single-family dwelling. Thus, the impacts of the proposed development to the listed frogs and snakes due to traffic would be greater than that of a smaller house. Because the residential development is not designed to avoid or minimize such impacts, it is inconsistent with Policies 7.3, 7.4, 7.33 and 7.36b.

Proposed Mitigation

The applicant's biologist (McGinnis 2000) recommends reducing the impact to San Francisco garter snake and California red-legged frog by recording a conservation easement prohibiting future development on the project site. This proposed mitigation is not adequate because it does nothing to avoid or minimize the impacts of the proposed development. Furthermore, in accordance with the LCP, the property is allowed one density credit (see Section 4.5 of this staff

report). Therefore, only one residence can be built on this property as it is; a conservation easement would provide limited added protection against future development of the project site.

Alternative Site

Most of the parcel is sensitive habitat. The wetlands, riparian areas, and grasslands are critical habitat for San Francisco garter snake and red-legged frog. The Monterey pine forest is also sensitive habitat. The only area on the site that does not meet the LCP definition of sensitive habitat is the eucalyptus groves, along the northern property boundary. Although some eucalyptus groves provide winter roosting habitat for Monarch butterflies, the grove in the northern portion of the site does not provide such habitat due to its exposure to wind (Dayton 2000).

Siting the residence in the eucalyptus grove at the northeast corner of the property would avoid or minimize impacts to sensitive habitat. Siting the house at this location would avoid loss of habitat for San Francisco garter snake and California red-legged frog and maintain migratory corridors of these species. Development sited in the eucalyptus grove would not only avoid the direct loss of habitat for the listed frog and snake but also would minimize both traffic and disturbance impacts. By moving the house to the eucalyptus grove, the driveway could be shortened and the extent of road traveled on would be reduced because distance traveled from Highway 1 to the eucalyptus grove would be shorter than to the proposed site. In addition, traffic on the roadway and driveway would be out of the dispersal corridor between the sag pond on the Lee property and ponds on the Hinman and Pfluke property. At this location in the eucalyptus grove, the residence would be further away from the Monterey pine forest because the forest does not extend past the riparian drainage to the eucalyptus grove.

According to the Department of Forestry, a buffer of 100 to 200 feet would have to be maintained between a residential structure and eucalyptus trees (Danny Cesna, staff communication). Therefore, siting the residence in the eucalyptus would require removal of most of the eucalyptus trees in the northern corner of the site. The removal of eucalyptus is generally considered a beneficial environmental impact because the tree is a non-native invasive species². Removal of eucalyptus is also supported by LUP Policy 7.51, which encourages landowners to remove blue gum (eucalyptus) seedlings to prevent their spread.

Although this site would be visible from Highway 1 and Año Nuevo, a smaller, more compact house with a lower roof elevation sited in the northeast corner of the property could be found consistent with the sensitive habitat policies of the LCP as well as the visual resource policies, which require proposed development to be sited in the least visible part of a site consistent with all other LCP policies. The Commission notes that the denial of this particular project does not mean that no single-family residence could be approved on the property. The Commission emphasizes that the applicant is free to submit a new application for development that is sited outside sensitive habitat.

² The California Exotic Pest Plant Council (CalEPPC) considers blue gum (*Eucalyptus globulus*), which is the eucalyptus species is on the Lee property, to be an aggressive invader that displaces natives and disrupts natural habitats. As such this species is included in CalEPPC's List A: Most Invasive Wildland Pest Plants (CalEPPC 2000).

4.2.4 Conclusion

In conclusion, the Commission finds that the proposed development is inconsistent with the sensitive species policies of the LCP. The project is sited within habitat for the San Francisco garter snake and the California red-legged frog. A residence with a smaller development area would generate less traffic and would therefore further reduce the potential impacts of traffic on the access road and driveway to the listed frog and snake. Siting the residence to the north in the eucalyptus grove would also avoid the loss of sensitive habitat (dispersal habitat of the San Francisco garter snake and red-legged frog). Because the proposed residential development is sited within a sensitive habitat area and because it is not designed to avoid or minimize impacts to threatened or endangered species, it is inconsistent with LCP Policies 7.3, 7.4, 7.33 and 7.36b. Therefore, the Commission denies permit application A-2-SMC-99-066.

4.3 Land Use – Agriculture

The Commission denies the permit application because the proposed project does not conform to the LCP policies regarding conversion of agricultural land.

4.3.1 Issue Summary

The parcel was used for agriculture in the past and includes prime agricultural land as defined in the LCP. The development is sited within prime agricultural land or land suitable for agriculture and does not meet the criteria to allow conversion of agricultural land.

4.3.2 Standard of Review

The LCP is extremely protective of agricultural lands and is reflective of the policies of the Coastal Act by its encouragement of agricultural uses to the exclusion of other land uses that may conflict with them. In short, the policies of the LCP acknowledge that coastal agricultural lands are an irreplaceable natural resource and the protection of their economic integrity as economic farm units is vital. In order to accomplish this, the LCP sets forth a number of requirements. These include, but are not limited to, defining allowable agricultural uses, principal and conditional uses, development standards, and easement requirements.

Chapter 5 of the LCP contains policies designed to keep agricultural land in agricultural production. In general, these LCP policies define and protect agricultural lands, allowing only certain uses in or near these areas. Applicable portions of the text of LCP policies discussed in this section are cited in Appendix B.

LUP Policies 5.1 and 5.3 define prime agricultural lands and lands suitable for agriculture, respectively. LUP Policies 5.5 and 5.6 describe uses that are permitted on prime agricultural lands and lands suitable for agriculture, respectively. Single-family residences are conditional uses in both of these areas. LUP Policies 5.8 and 5.10 provide criteria for development of prime agricultural lands and lands suitable for agriculture, respectively. LUP Policy 5.11 provides density limits on agricultural land.

Section 6353 of the LCP Implementation Plan requires issuance of a Planned Agricultural Permit for a single-family residence on prime agricultural lands and lands suitable for agriculture. Section 6355 defines substantive criteria that must be addressed to ensure that land uses are consistent with the purpose of the PAD. The substantive criteria address protection of agricultural uses on land in the PAD. The criteria includes minimizing encroachment on land

suitable for agricultural use, clustering development, availability of water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

4.3.3 Discussion

Background

The project site was originally part of the larger Steele Ranch that at one time encompassed roughly 7,000 acres dedicated primarily to dairy operations. The original Steel Ranch, dating back to the 1870's, extended from Gazos Creek to the Santa Cruz border along the south and east (Le Boeuf and Kaza 1981). The properties were subdivided in the 1950s creating the Lee parcel and its neighboring properties. Historic grazing on this parcel has long since ceased. The site where the residence is proposed appears to have been cleared for grazing as evidenced by the Monterey pine saplings that are appearing along the edge of the pine forest near the house site. The 14 acres between the sag pond and Highway 1 are prime agricultural soils because the area has Lockwood soils, which are defined as Class II soils³ (Figure 6). A 1993 aerial photograph of the site shows that row crops were grown on the prime agricultural land as well as on Santa Lucia soils north of the sag pond. These rows were probably flowers (Field 2000c). No crops are visible north or east of the riparian and scrub drainage. The cropland has been fallow for the past few years.

Impacts and Consistency with Applicable LCP Policies

The proposed residence on agricultural lands is not a principally permitted use and is allowed only as a conditionally permitted use under LUP Policies 5.5 and 5.6. The general incompatibility of residential and agricultural land uses is highlighted by the fact that the proposed project is a conditional, discretionary use at this site. As such, the allowance of the proposed use is not a right under the LCP and is subject to discretionary review for consideration. Reasons for this conditional use designation are rooted in the inherent incompatibility of these two land uses. Typical incompatibility issues raised at urban-agricultural land use interface include: noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands to name a few. Such incompatibilities can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns that standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations – cultivating, spraying, harvesting, et al) are a threat to the non-agricultural uses.

The land with Class II soils between the sag pond and Highway 1 are prime agricultural lands in accordance with the definition in LUP Policy 5.1a. The land where the residence is proposed (Site 2) does not have Class I or II soils and there is no evidence that artichokes or Brussel sprouts were ever grown in this location. However, the land where the residence is proposed was

³ Class II soils are those that “can be cultivated regularly, but do not have quite so wide range of suitability as Class I soils.” Soil classes are part of a capability grouping of soils based on the relative suitability of soils for crops, grazing, forestry, and wildlife, as defined by the U.S. Department of Agriculture Soil Conservation Service (U.S. Department of Agriculture 1961).

previously used for grazing and the Santa Lucia soils are considered “best suited for range use” and has a “fair carrying capacity” according to the U.S. Department of Agriculture (U.S. Department of Agriculture 1961). Therefore, the land where the residence is proposed meets the definition of prime agricultural land under LUP Policy 5.1c., which defines prime agricultural lands as “land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.” In addition, as historic grazing land and land which has the potential to be used for grazing in the future, the site where the house is proposed would be considered “lands suitable for agriculture” under the definition in LUP Policy 5.3, which includes “lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.”

LUP Policy 5.8a lists four criteria that must be met to before prime agricultural land can be built upon (“converted”), for a conditionally permitted use. Failure to meet any one of these criteria requires that the proposed conversion be prohibited. The project as proposed is strictly for residential use, and would preclude virtually any agricultural use by displacing agricultural lands for the house and other appurtenances, reflecting pond, and driveway. As discussed below, the project as proposed would convert prime agricultural land to a non-agricultural use, and fails to meet two of the criteria for permitting such a conversion.

LUP Policy 5.8a.(1) specifies as a prerequisite to conversion of agricultural lands “**That no alternative site exists for the use.**” While most of the rest of the site is either prime agricultural land and/or sensitive habitat, the alternative site in the eucalyptus grove in the northeast corner of the parcel (see Section 4.2.3, Alternative Site of this staff report) would provide a site that would not be in prime agricultural land or sensitive habitat. Therefore, the proposed conversion of agricultural lands to residential use does not meet the first criteria of LUP Policy 5.8.

LUP Policy 5.8a.(2) requires that “**Clearly defined buffer areas are provided between agricultural and non-agricultural uses.**” The Farm Bureau generally recommends a 300-foot buffer zone be established between residences and fields to buffer residences from the effects of herbicide and pesticide spraying and other agricultural activities that can conflict with residential use. For instance, San Mateo Farm Bureau Executive Director Jack Olsen has stated that cultivation of Brussel sprouts in the area relies on the application of the soil fumigant pesticide Telon II (the brand name for the chlorocarbon 1,3-dichloropropene) and that the state's Department of Pesticide Regulation does not permit the application of Telon II within a 300-foot buffer zone. Although the proposed site for the residence would be more than 300 feet from existing agricultural activities, future agricultural uses may be closer. For example, Santa Cruz County has indicated that the large grassland area on the Hinman property, approximately 250 feet to the northeast of Site 2, could support a small grazing herd or commercial agricultural crops, such as cut flowers, ollalie berries, kiwis, pumpkins, squash, or Christmas trees (California Coastal Commission 2000). Because the proposed development would not establish clearly defined buffer areas between agricultural and non-agricultural uses, the proposed development fails to meet the second criteria under LUP Policy 5.8.

The criteria for conversion of land suitable for agriculture is the same as the criteria for prime agricultural land, except that the first criteria is slightly different and there is one additional criteria. The first criteria under LUP Policy 5.10a requires demonstration that “**All**

agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable.” All agriculturally unsuitable lands on the parcel have not been developed or determined undevelopable. The eucalyptus grove in the northeast corner of the site provides a location that would meet this criteria. LUP Policy 5.10a.(2) requires a finding that **“Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act.”** Without the proposed development, the proposed house site could be used for agriculture. Therefore, the proposed development is inconsistent with LUP Policy 5.10a.

Residential development is a conditional, discretionary use in the PAD zone applicable to the parcel. Specific findings to allow such a use must be made pursuant to LCP Implementation Plan Section 6355. As explained in the site description, the proposed single-family dwelling complies with the PAD zoning of the lands within the coastal zone, which allows one density credit or one residential unit on the property. A single-family residence is not allowable as a principally permitted structure within the PAD, but may be allowed with the issuance of a Planned Agricultural Permit. However, the substantive criteria for the conversion of prime agricultural land to allow issuance of a Planned Agricultural Permit (Section 6355D of the LCP Implementation Plan) is the same as the criteria under LUP Policy 5.8a. Similarly, the criteria for conversion of the land suitable for agriculture to allow issuance of a Planned Agricultural Permit (Section 6355F of the LCP Implementation Plan) is essentially the same as under LUP Policy 5.10a. Therefore, the proposed development does not meet the criteria to allow issuance of a Planned Agricultural Permit.

Alternative Site

Most of the parcel is Prime Agricultural Land and Land Suitable for Agriculture. The Lockwood loam soils are Class II soils and therefore meet the definition of Prime Agricultural Land under LUP Policy 5.1a. The open grassland areas were most likely cleared for agriculture and at the least can support grazing, and therefore meet the criteria for Prime Agricultural Land and Land Suitable for Agriculture under LUP Policies 5.1c. and 5.3. The only areas that cannot support grazing are the forested areas. The eucalyptus grove in the northeast corner of the site provides an alternative site that does not conflict with agricultural policies, as well as sensitive habitat policies, and would allow conversion to a residence.

4.3.4 Conclusion

In conclusion, the Commission finds that the proposed development is inconsistent with the agricultural policies of the LCP. Because the development is sited within prime agricultural land and land suitable for agriculture and does not meet the criteria to allow conversion of either prime agricultural land or land suitable for agriculture, it is inconsistent with LUP Policies 5.8 and 5.10 and Sections 6355D and 6355F of the Implementation Plan. Therefore, the Commission denies Permit Application A-2-SMC-99-066.

4.4 Visual Resources

The Commission denies the permit application because the proposed development is not located in the least visible site consistent with all other LCP policies and is not designed to conform with the LCP policies concerning the protection of the scenic qualities of the hills visible from a scenic highway and public viewpoint.

4.4.1 Issue Summary

The LCP presents two primary tests that address the conformity of the proposed development with the visual resource policies of the certified LCP. The first test addresses siting of development in scenic areas and where it is visible from public viewpoints. This first test is based on LUP Policy 8.5, which requires that new development be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserves the visual and open space qualities overall. The second test addresses the design of development to avoid or minimize impacts to visual resources. The second test requires that development be designed to be unobtrusive as possible and relate in size and shape to adjacent buildings or landforms.

Highway 1 is a State Scenic Road, as defined and designated in LUP Policies 8.28 and 8.29, and Año Nuevo State Reserve is designated as a reserve because of its “outstanding natural and scenic characteristics.” The Lee property, which comprises 84.48 acres, includes two intermediate ridge lines and existing, mature trees and other vegetation that block views of some portions of the property from the highway and the reserve. However, in accordance with LUP Policy 8.5, because some of the less visible alternative sites are in sensitive habitat, the least visible site that is consistent with all other LCP requirements must be ascertained. The applicant conducted a constraints analysis and alternatives assessment to address LUP Policy 8.5. However, this constraints analysis does not include a visual analysis of sites consistent with the sensitive habitat and agricultural policies of the certified LCP. In particular, this analysis does not evaluate the alternative site identified in Sections 3.3 and 3.4, which can be found consistent with the habitat and agricultural protection policies of the LCP.

In addition, the large, two-story, sprawling design of the project does not conform to the requirement that the development in scenic areas shall be as unobtrusive as possible through design, siting, layout, size, height, and shape. The house is 256 feet across facing Highway 1 and Año Nuevo State Reserve, while the depth of the house is 36 feet at its widest. The 256 feet includes 93 feet between the main house and the accessory building that has no solid walls, just seven columns that are approximately two-thirds the height of the house. This area includes a below-ground garage and an open colonnade. The surrounding area is agricultural in character and very sparsely developed. The closest visible developments are farmhouses and associated structures that are located at the base of hills. The proposed development is a very large residence with a modern design and includes massive artificial berms. Neither the proposed residence nor the berms relate in size or shape to adjacent buildings or landforms.

4.4.2 Standard of Review

The proposed project is within the San Mateo County coastal zone, and under the jurisdiction of the County’s certified Local Coastal Program (LCP). Section 30604(b) of the Coastal Act states that after certification of an LCP, a coastal development permit shall be issued if the issuing agency or the Commission on appeal finds that the proposed development is in conformity with the certified LCP. Accordingly, the standard of review for the proposed project is the San Mateo County LCP. Applicable policies are cited in Appendix B.

Several of the policies of the LUP regarding visual resources are applicable to the proposed development. LUP Policy 8.5 requires that development be sited in the least visible location that is consistent with all other LCP requirements. LUP Policies 8.18a. and 8.20 require that the development be designed to avoid or minimize impacts to visual resources. LUP Policy 8.17a. requires that development be located and designed to conform with rather than change landforms. State scenic roads and corridors are defined and designated in LUP Policies 8.28 and 8.29. Development regulations along scenic corridors in rural areas are described in LUP Policy 8.31. LUP Policy 8.31a incorporates the policies of the Scenic Road Element of the County General Plan, of which the applicable policies are 4.46, 4.47, 4.48, and 4.58. General Plan Policy 4.46 allows the County to regulate both site and architectural design of structures in rural scenic corridors to protect the visual quality of those areas. General Plan Policy 4.58 also requires that development be located so that it does not obstruct views from scenic roads or disrupt the visual harmony of the landscape. As with LUP Policy 8.17a, landform alteration is discouraged in General Plan Policy 4.47. Similarly, General Plan Policy 4.48 contains language that is similar to 8.20 regarding size and scale of development.

4.4.3 Discussion

Test 1: Siting

Visibility of Project from Highway 1 and Año Nuevo Reserve

The proposed development would be located on the top of a southwest-facing hillside inland of Highway 1, in the unincorporated Pescadero area of San Mateo County. This portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer. It is one of the most spectacular, scenic coastal areas in San Mateo County.

The subject parcel ranges in elevation from approximately 160 to 390 feet above mean sea level (msl). The proposed building site is located on a flat grassland terrace at the highest point of the property. Much of the property is located within the Highway 1 and Año Nuevo State Reserve viewshed, with one of the most prominent locations being the top of the hill upon which the proposed development would be located. Because of its large, sprawling size and two-story height, the proposed development would be exceptionally visible to vehicles traveling south and north on Highway 1 and would be visible from trails in Año Nuevo State Reserve. State Reserves are the highest level of protection classification of the California State Park System. The Public Resources Code describes State Reserves as “consisting of areas of embracing outstanding natural and scenic characteristics of statewide significance” (California Department of Parks and Recreation 2000). In addition, Año Nuevo Point is designated as a National Natural Scenic Landmark. Año Nuevo State Reserve currently is visited by over 200,000 people from around the world annually with higher visitation rates expected in the future (California Department of Parks and Recreation 2000, Enge 1999). Visitors to the Reserve come to see the thousands of elephant seals that breed there as well as to enjoy pristine coastal views looking inland that are not possible from many locations along the coast (Enge 1999). The proposed site

is visible from numerous locations on the main public trail in the Reserve. It is also visible from the Outdoor Education road/trail coming in from Año Nuevo point. The point is approximately two miles from the proposed building site and the closest portion of Año Nuevo State Reserve is approximately a half mile from the building site. Although the views from the reserve to the site are somewhat distant, the proposed development represents a significant alteration in the view because no other similar development is visible from these areas. The Lee house would be a large non-agricultural residence visible from the reserve because it is sited at the top of a hill with a large clearing in front of it. With the exception of the Boling house, adjacent residences are associated with farms and are hidden and/or sited at the base of a hill near Highway 1. According to California Department of Parks and Recreation, from the Reserve “visitors view pristine coastal mountains with no current intrusive visual impacts” (California Department of Parks and Recreation 2000).

Constraints Analysis

The applicant has provided an analysis of the project impacts and constraints. Additional analyses included biological assessments (Thomas Reid Associates 2000a and 2000c), wetland delineation (Thomas Reid Associates 2000b), geotechnical review (Romig Consulting Engineers 2000a and 2000b), arborist’s analysis (Fong 2000a and 2000b), assessment of Monterey pines by a forester (Staub 2000), and analysis of LCP consistency (Boyd 2000). At the request of Commission staff, the applicant used these studies along with additional observations to create constraints maps of the entire site (Figures 18 through 20). Figure 21 was created after the alternatives analysis was conducted and demonstrates that much of the site is visible from public viewpoints.

Alternatives Analysis

In response to the Commission’s appeal and to address LUP Policy 8.5, the applicant conducted an alternatives siting analysis. The locations of the alternative sites suggested by Commission staff and considered by the applicant are shown in Figure 15. The County-approved site discussed in the Substantial Issue portion of this report is referred to as Site 1. **The applicant has indicated that Site 2 is the proposed project for purposes of the De Novo review** (Lee 2000). Site 2 is 215 feet to the southeast to the south of Site 1. Site 3 is located to the immediate southeast of Site 2. Site 3 would locate the development in the southeast corner of the parcel, where it would be more effectively screened by existing mature Monterey pine forest. Site 4 is on the southeast side of the property above the ravine. Of the alternatives presented, Site 4 appears to be the least visible alternative. Site 5 is on the north side of the property. Site 6 is behind the first ridge on the southeast side of the parcel approximately 1,650 feet from Highway 1. Other sites may also be considered. Because Site 2 is the applicant’s proposed project location and Site 4 appears to be the least visible site, these two alternatives are analyzed in greater detail than the other alternatives. The viewshed from Highway 1 and Año Nuevo to Sites 2 and 4 is shown in Figure 22. As stated above, the analysis does not evaluate the alternative site identified above in Section 3.3 and 3.4, which can be found consistent with the agricultural and sensitive habitat policies of the LCP.

After the appeal was filed the applicant provided visual simulations of the project from six locations along Highway 1 and from four locations in Año Nuevo State Reserve (Figure 23). These simulations show the development at the five sites, although not all of the sites are shown from all of the camera angles. Site 4 is shown from camera positions B and D only because it is

not visible from the other camera angles. In addition, it appears from the simulation for Site 4 that the development would not be visible from camera position D at Año Nuevo State Reserve. The proposed development at Site 4 would be visible from only one of the camera positions and Site 2 would be visible from all of the camera positions. Therefore, placing the development at Site 4 would make it far less visible than at Site 2. In addition, the simulations for Sites 1 and 2 were guided by the story poles placed at the site, while the others did not benefit from that level of accuracy.

Applicant's Reasons for Eliminating All Sites Except Site 2

Site 2

The applicant contends that the proposed building site (Site 2) minimizes impacts on biological resources. Site 2 would be approximately 1,700 feet from a pond, which supports red-legged frogs, and 400 feet from a ravine, which the applicant has indicated may provide a dispersal corridor for the red-legged frogs (Thomas Reid Associates 2000a).

The Monterey pine forest and blue-gum eucalyptus stands may provide temporary roosting habitat for Monarchs. One Monarch butterfly was observed in the willows at the entrance to the property near Highway 1 (Dayton 2000). Site 2 is 2,750 feet from where the Monarch butterfly was seen. Monarchs were also observed in eucalyptus trees on the northern boundary of the site (Thomas Reid Associates 2000a), which is approximately 700 feet from Site 2. Site 2 is approximately 100 feet from the closest eucalyptus stand and 100 feet from the Monterey pine forest. Monarchs typically leave the area in February and early March and their populations were low during the winter of 2000, and therefore may be present in greater abundance earlier in the season (Dayton 2000). A biologist for the applicant noted that "...it is very unusual to find Monarch populations in areas open to wind. Thus, although the trees that border the project site have some potential as Monarch roost habitat, it seems unlikely that they would be utilized during periods when winds are from the south or west" (Dayton 2000).

The applicant contends that Site 2 is the optimum site from a geologic and geotechnical engineering viewpoint (Thomas Reid Associates 2000a; Romig Consulting Engineers 2000a and 2000b). The San Gregorio fault is approximately 1,400 feet to the west of Site 2.

Site 3

Site 3 is directly adjacent to an existing Monterey pine forest and contains a large number of Monterey pine saplings. The site appears to be suitable for regeneration of Monterey pine forest. As further discussed below, Monterey pine forest meets the definition of environmentally sensitive habitat under the LCP. Development at Site 3 would require removal of Monterey pine saplings and may reduce the area on the site available for regeneration of Monterey pine forest.

Site 4

Site 4 would be approximately 1,080 feet from the pond and 175 feet from the ravine mentioned above. The applicant contends that it would not be possible to "place a homesite on the Site 4 slope and both respect the 100-foot wetlands buffer and a 75-foot setback from the existing Monterey pines" (Boyd 2000). A biologist for the applicant conducted a preliminary wetland

assessment and identified four wetland areas (Thomas Reid Associates 2000a) as well as a jurisdictional wetland delineation (Thomas Reid Associates 2000b), as shown in Figure 24. According to a constraints map of Site 4 prepared by the applicant's geotechnical engineers, the house would be within the 100-foot buffer of a wetland and 75 feet of the Monterey pines (Figure 25).

The applicant has identified buffers around the Monterey pine forest and concludes that locating the development at Site 4 would impinge on this buffer. The applicant's agent states that "it would be impossible to construct the home without impacting the root zones and groundwater vital to the Monterey pines" (Boyd 2000). The forester concluded that to protect the natural regeneration of the Monterey pine populations, development should be 80 to 115 feet from the existing mature forest perimeter (Staub 2000). In addition, the applicant states that Site 4 would need to be located 75 feet from Monterey pines for safety reasons: out of reach if they topple and to reduce fire hazards (Fong 2000b; Boyd 2000).

Site 4 is 2,400 feet from where the butterfly was seen in the willows near the entrance and approximately 100 feet from the Monterey pine forest. The eucalyptus trees on the northern boundary of the site where Monarchs were seen (Thomas Reid Associates 2000a) are approximately 1,000 feet from Site 4.

The applicant contends that Site 4 would not be feasible or would be inconsistent with LCP policies regarding geologic hazards. Site 4 is approximately 1,100 from the fault. The applicant's geotechnical engineers noted that soil slumping and shallow landsliding are actively occurring in the colluvial soils at Site 4. Grading and earthwork required to site the proposed house design at Site 4 would result in fill slopes as high as 40 feet to accommodate the house pad (Romig Consulting Engineers 2000b). Fills would have to be properly keyed and benched into the weathered rock below the hillside and the fills would have to be kept dry. A letter from the geotechnical engineers indicates that the subdrainage needed to build the fills could dewater the soils contributing ground water to the wetland areas. The letter also states that due to the fills and grading, erosion would occur, especially in the first few years after construction (Romig Consulting Engineers 2000b).

Site 5

The applicant's analysis rejects Site 5 because it is more visually prominent than Site 2 (Boyd 2000).

Site 6

The applicant reject Site 6 because it would require the longest driveway (1,400 feet) of any of the sites and would cross the grassland that provides critical habitat for the San Francisco garter snake and the red-legged frog. This site is closer to the San Gregorio Fault than any of the other sites and is in a moderate to high geologic hazard zone.

Staff's Analysis of the Least Visible Site Consistent With All Other LCP Policies

The Commission finds that, contrary to LUP Policies 8.5 and 8.18, the applicant's analysis fails to demonstrate that the proposed development at Site 2 is located where it is least visible from State and County Scenic Roads and least likely to significantly impact views from public

viewpoints. LUP Policy 8.5 requires that development be located where it is least visible consistent with all other LCP requirements. As discussed above in Section 4.2 of this staff report, California red-legged frogs disperse in upland grassland portion of the site, rather than just the ravine. The wetland areas as well as grasslands provide critical habitat for San Francisco garter snake and California red-legged frog. Therefore, at both Site 2 and Site 4 the residence would be in sensitive habitat. The proposed residence at Site 2 would also be in prime agricultural land and land suitable for agriculture and does not meet the criteria to allow conversion of agricultural land, as described in Section 4.3 of this staff report. Hence, locating the development at Site 2 would be inconsistent with LUP Policy 8.5 because it would not be consistent with sensitive habitat and agricultural requirements of the LCP. However, the residence could be sited in the eucalyptus grove in the northeast corner of the site without conflicting with sensitive habitat, agricultural, or any other policies of the LCP.

In addition, a smaller footprint and more compact design would reduce visual as well biological and geological impacts, and comply with the LCP. As discussed below, the Commission finds that, contrary to LUP Policy 8.18, the applicant has not demonstrated that the proposed development would be designed so that it is least likely to impact views from public viewpoints. As discussed above, to conform with the visual resource protection policies of the LCP, development of the subject property must be designed to minimize visual impacts in this highly scenic area and to be as unobtrusive as possible. The proposed development cannot comply with these requirements without substantial design and siting changes requiring both architectural and engineering work. The Commission does not have the resources to undertake such a comprehensive redesign of the project. Thus, the existing project cannot now be conditioned to achieve consistency with the certified LCP. It is therefore appropriate for the Commission to deny the permit application and the applicant to reapply for a project consistent with all relevant LCP policies.

As a result of this tree removal required by fire regulations, a residence in the eucalyptus trees in the northeastern corner of the site would be visible from Highway 1 and Año Nuevo. Nevertheless, a smaller, more compact house with a lower roof elevation that is sited in the northeast corner of the property could be consistent with sensitive habitat policies and agricultural policies as well as visual resource policies.

Test 2: Scale, Design, and Landform Alteration

Development Should Be As Unobtrusive As Possible

The proposed development is inconsistent with LUP Policy 8.18a. and 8.31a because it is not designed to protect views from Highway 1 and Año Nuevo State Reserve, is not visually compatible with the character of the surrounding area, and would not be subordinate to the character of its setting.

Policy 8.18a. requires development to blend with and be subordinate to the environment and the character of the area and be as **unobtrusive as possible** through, but not limited to, **siting, design, layout, size, height, shape**, materials, colors, access, and landscaping. General Plan Policy 4.46, which is incorporated by reference in Policy 8.31a, allows the County to regulate both site and architectural design of structures in rural scenic corridors to protect the visual

quality of those areas. General Plan Policy 4.58, also incorporated by reference in Policy 8.31a., also requires that development be located so that it does not obstruct views from scenic roads or disrupt the visual harmony of the landscape. As modified for purposes of the Commission's de novo review, the development would be 26 feet high above natural grade and have a linear design that would present an approximately 256-foot-long façade to the coastal viewshed. In the proposed location at the top of the hill directly in front of the proposed residence, the two proposed berms would be very visible from public viewpoints. These berms would be 406 feet long and 200 feet long, respectively, and a maximum of twelve feet high. Because of their location on a small flat area at the top of the hill it is not feasible to make a gradual, natural-appearing slope and design. Thus, the large, modern house design would not be as unobtrusive as possible, and would not be consistent with LUP Policies 8.18a and 8.31a (General Plan Policies 4.46 and 4.58, by reference). The berms would appear massive and artificial and would not be subordinate to the natural landforms of the site, also in conflict with LUP Policy 8.18a. A more compact house design that minimizes the area facing public viewpoints would be more consistent with this policy than the proposed design. A small, single-story house could be hidden behind lower, smaller berms that would minimize land form alteration and related visual impacts. Moreover, if the house were small enough, no berms would be necessary.

Placing the house at the top of the hillside where there is minimal existing vegetation or topography to screen the house does not subordinate the house to the character of its setting. Although the project as proposed would use colors and non-reflective materials that would attempt to match the shades of the eucalyptus grove behind the structures, and the eucalyptus trees behind it would provide some backdrop, to be truly "subordinate" the house would need to be behind trees, and therefore screened by the trees, rather than sited in front of them. Policy 8.18b requires screening to minimize the visibility of development from scenic roads and other public viewpoints. Existing vegetation and landforms would not screen the development as proposed. Existing trees, such as Monterey pines that are susceptible to pitch canker, may develop diseases that kill or weaken them, revealing structures placed behind them. In addition, the proposed project instead relies on planting screening vegetation (Monterey cypress and shrubs) adjacent to the house as well as along the lower ridge (see Figure 15).

As the proposed development would not be designed to protect views from scenic roads and public viewpoints, would not be as unobtrusive as possible, would not be visually compatible with the character of surrounding areas, and, in particular, would not be subordinate to the character of its setting, the Commission finds that the proposed development is inconsistent with LUP Policy 8.18. Therefore, the Commission finds that the permit application must be denied. As discussed above, to conform with the visual resource protection policies of the LCP, development of the subject property must be designed to minimize visual impacts in this highly scenic area and to be as unobtrusive as possible. The proposed development does not comply with these requirements without substantial design changes requiring both architectural and engineering work. The Commission does not have the resources to undertake such a comprehensive redesign of the project. Thus, the existing project cannot now be conditioned to achieve consistency with the certified LCP. It is therefore appropriate for the Commission to deny the permit application and the applicant to reapply to the County for a project consistent with all relevant LCP policies.

Structure Does Not Relate in Size and Scale to Adjacent Buildings or Landforms

LUP Policy 8.20 and General Plan Policy 4.48 (by reference in LUP Policy 8.31a) requires development to be related in size and scale to adjacent buildings and landforms. There are very few structures visible from Highway 1 and the State Reserve within approximately ten miles of the site. Residences and other structures that are typical of the south coast of San Mateo County are modest farmhouses, barns, and agricultural outbuildings. The two closest developments that are visible from Highway 1 are farm buildings relatively near the highway. The buildings associated with the berry farm to the south are screened by topography and vegetation so that mostly just the rooftops are visible. The buildings to the north are mostly farm buildings that are very different from the proposed development. There are only a few structures that are within the Año Nuevo viewshed. These include the RMC Lonestar cement plant in Davenport, the Big Creek Lumber operation immediately south of Waddell Creek, and the Boling residence; all of which are on the inland side of Highway 1. These structures are further from Año Nuevo Point than the proposed site of the Lee residence: approximately 10 miles, three miles, and 2.5 miles, respectively. The 6,000-square-foot Boling residence (APN 057-061-17) is southeast of the Lee parcel on 14 acres in Santa Cruz County. The Boling residence would be less visible than the Lee residence from many vantage points because it is in a relatively small clearing in a densely forested area. This structure can be seen from Año Nuevo State Reserve because at certain points it is not screened by intervening topography or vegetation and has white trim on the windows. This structure demonstrates how the construction of buildings in Año Nuevo's mostly pristine viewshed can change the experience of the Reserve, particularly if the house is painted with colors that stand out, such as the white window trim. The most prominent structure visible from within the Park is the Año Nuevo visitor's center itself. However, the visitor's center approximates a large agricultural barn and is compatible with the overall Park ethic. The Lee house would be the first very large residence not associated with agriculture in the area that is readily visible from Highway 1, and would be visible from Año Nuevo State Reserve.

The surrounding area is agricultural in character and very sparsely developed. Local government approvals were granted for two other very large houses nearby. Santa Cruz County approved a 14,766 square foot Gothic mansion on a 50-acre parcel just east of the San Mateo County limit, and immediately adjacent to the Lee site (Hinman). The Commission appealed this permit in part because of the project's visual impacts. The Commission approved the Hinman project on appeal with very restrictive conditions, requiring the house height be lowered so that it was no longer visible and reducing the area of impact from approximately two acres to one-quarter acre. The proposed Blank house is 15,000 square feet and proposed to be located approximately 1.3 miles northwest of the proposed location of the Lee house. The CDP application by Steve Blank was approved with conditions by San Mateo County and was appealed to the Coastal Commission. On October 12, 2000, the Commission found substantial issue and continued the De Novo hearing for the Blank CDP.

In conclusion, the proposed modern sprawling development at the top of hill is not consistent in size or design with the mostly undeveloped open space and agricultural lands that are found along the south coast of San Mateo County. The areas around Año Nuevo, in particular, are sparsely-developed and rural in nature. To be consistent with the southern San Mateo coast's rural character, the proposed development must be similar in size and scale to adjacent buildings and landforms. Therefore, the Commission denies the permit application on the grounds that the

proposed development is inconsistent with LCP Policy 8.20 and 8.31a (General Plan Policy 4.48).

Alteration of Landforms

The grading, cutting, and filling required to lower the apparent height of the house by ten feet and create berms would not be consistent with LUP Policy 8.17a. and General Plan Policy 4.47, as referenced in LUP Policy 8.31a. This policy requires that “development be located and designed to conform with, rather than change landforms.” It further requires that development be designed to “minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development.” While the proposed house site is relatively flat and would allow construction of a house with minimal landform disturbance, because of the height and large size of the proposed house, extensive landform alteration is proposed in an attempt to conform with other LUP visual resources policies. However, the proposed house design remains inconsistent with LUP Policy 8.18a. because of its large size, and with the proposed landform alteration is also inconsistent with LUP Policy 8.17a and General Plan Policy 4.47. By reducing the house size and height and using a more compact design, the size of the berms could be reduced or the berms may not be necessary. Therefore, the Commission denies CDP application A-2-SMC-99-066 on the grounds that the proposed development is inconsistent with LUP Policies 8.17a., 8.18a., and 8.31a. of the San Mateo County LCP.

4.4.4 Conclusion

In conclusion, the proposed development is inconsistent with the visual resource policies of the San Mateo County LCP. The Commission finds that, contrary to LUP policies 8.5 and 8.18, the applicant’s analysis fails to demonstrate that the proposed development at Site 2 is located where it is least visible from State and County Scenic Roads consistent with all other LCP requirements and least likely to significantly impact views from public viewpoints. In addition, a smaller footprint, lower height, and more compact design would reduce visual as well biological and geological impacts, and comply with the LCP. As the proposed development is not designed to protect views from scenic roads and public viewpoints, would not be as unobtrusive as possible, would require substantial landform alteration, would not be visually compatible with the character of surrounding areas, and, in particular, would not be subordinate to the character of its setting, the Commission finds that the proposed development is inconsistent with LUP Policy 8.18a. Because it is within the public viewshed and is not similar in size and scale to adjacent buildings and landforms, the project is not compatible with the LCP. Therefore, the Commission denies CDP application A-2-SMC-099-066 on the grounds that the proposed development is inconsistent with Policies 8.17a., 8.18a., 8.20, and 8.31a. of the San Mateo County LCP.

4.5 Development Review

Although the proposed development will likely use more water than a smaller residence, it is in conformance with LUP Policy 1.8.

4.5.1 Issue Summary

The proposed development has one density credit, thereby allowing the development of one single-family residence, as proposed.

4.5.2 Standard of Review

LUP Policy 1.8 requires the determination of density credits for new or expanded non-agricultural development. Essentially, one density credit allows the development of one single-family residential dwelling. LUP Policy 1.8c.(2)(a) states that “a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and all other appurtenant uses).”

LUP Policy 1.23 and associated Table 1.4 define the number of developments that can occur in a year within particular watersheds. The purpose is to limit development in rural areas so that it does not overburden coastal resources or public services.

4.5.3 Discussion

San Mateo County determined that the Lee property qualified for 1.10 density credits, which is rounded to the nearest whole number, or one density credit (Exhibit 3). This means that on the entire parcel only one residence can be constructed. Smaller lot sizes and increased multi-family housing generally lower per capita water use (Department of Water Resources 2001).

Conversely, larger dwellings, such as the one proposed, with large water features, such as the 6,000 square-foot reflecting pond, are likely to use more water than the average household and more than the 315 gallons per day allowed per density credit. Nevertheless, the LCP does not define the size of the house and appurtenances allowable per density credit. There is no provision of the LCP that requires additional density credits based on the scale of a single-family residential development.

4.5.4 Conclusion

Although the proposed development will likely use more water than a smaller residence, it is in conformance with LUP Policy 1.8.

4.6 California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on Coastal Act policies at this point as if set forth in full. For the reasons described in the Commission findings above, the Commission finds that there are feasible mitigation measures and alternatives that would substantially lessen the significant adverse impacts of the development on the environment. A smaller and lower residence designed to be as unobtrusive as possible and to be subordinate to the visual character of the surrounding area would minimize the adverse impacts to the scenic quality of the area. By re-siting the development to the eucalyptus grove in the northeast corner of the property significant adverse impacts to California red-legged frogs and San Francisco garter snakes would be avoided, as well as moving the development off of agricultural land. Such project alternatives and mitigations that would avoid and/or minimize significant adverse impacts to scenic,

A-2-SMC-99-066

David Lee

biological, and agricultural resources have not been provided. Therefore, the Commission denies this permit application on the grounds that it is inconsistent with Section 21080.5(d)(2)(A) of CEQA.

Appendix A

Substantive File Documents

References

- California Coastal Commission, Central Coast District Office. 2000. Appeal Staff Report, De Novo Hearing, Hinman-Skees Residence, A-3-SCO-00-033. November 27, 2000.
- California Department of Parks and Recreation, Rusty Areias. 2000. Letter to Peter Douglas, Executive Director, California Coastal Commission, regarding comments on appeal no. A-2-SMC-99-066. January 12, 2000.
- California Exotic Pest Plant Council (CalEPPC). 2000. List of Exotic Pest Plants of Greatest Ecological Concern. July 11, 2000. Available: <http://www.caleppc.org/info/plantlist.html>.
- Boyd, Bill. 2000. Memo to Chris Kern regarding David Lee Project – LCP Consistency. June 22, 2000.
- Dayton, John. 2000. Letter to Patrick Kobernus, Thomas Reid & Associates regarding evaluation of Lee property (2070 Coast Highway 1 as Monarch Butterfly Habitat. March 13, 2000.
- Department of Water Resources. 2001. California's Water Resource, Urban Water Use. Available: http://www.dwr.ca.gov/dir-CA_Water_Resource/Urban_Wtr_Use.html.
- Enge, Marilee. 1999. "Houses planned near seal reserve drawing protest." San Jose Mercury News. December 20, 1999.
- Field, Stan. 2000a. Memo to Jane Steven, Coastal Planner regarding entrance and driveway and area of residence and appurtenances.
- Field, Stan. 2000b. Description and drawing of berms and lowering residence. September 27, 2000.
- Field, Stan. 2000c. Fax memo of Lee house calculations and previous agricultural use of the site. December 19, 2000.
- Field, Stan. 2001. Fax memo of revised area calculations. January 11, 2001.
- Fong, Herb. 2000a. Letter to Stan Field regarding screening vegetation for the Lee property. April 10, 2000.
- Fong, Herb. 2000b. Letter to Stan Field regarding setback recommendations from Monterey pines for the Lee property. June 19, 2000.
- Institute of Transportation Engineers. 1997. Trip Generation, 6th Edition.
- Johnsson, Mark. 2000. Memo to Jane Steven, Coastal Program Analyst, California Coastal Commission. May 25, 2000.
- Be Boeuf, Burney J. and Stephanie Kaza, editors. 1981. The Natural History of Año Nuevo.
- Lee, David. 2000. Letter stating that Site #2 is the proposed project building site for purpose of the de novo review. June 13, 2000.

A-2-SMC-99-066

David Lee

NatureServe: An online encyclopedia of life [web application]. 2000. Version 1.0. Arlington, VA: Association for Biodiversity Information. Available: <http://www.natureserve.org/>. (Accessed October 5, 2000).

McGinnis. 2000. A Determination of Habitat for the San Francisco Garter Snake and the California Red-legged Frog on the David Lee Property, 2070 Highway 1, San Mateo County, CA (APN# 089-230-220). November 6, 2000.

Pettit, Deirdre. 1999. "Large homes on South Coast raise precedent concern." Half Moon Bay Review.

Romig Consulting Engineers. 1999. Geotechnical Investigation, Lee Residence, Año Nuevo, California. June 1999. Prepared for Stan Field Associates.

Romig Consulting Engineers, David F. Hoester and Glenn A. Romig. 2000a. Letter to Stan Field regarding Supplemental Review, Lee House, Año Nuevo, California. March 24, 2000.

Romig Consulting Engineers. 2000b. Letter to Stan Field regarding Supplemental Review, Alternative Site B, Lee House, Año Nuevo, California. June 9, 2000.

San Mateo County. 1994. Zoning Regulations.

San Mateo County. 1998. Local Coastal Program Policies.

San Mateo County. 1999a. CDP #PLN 1999-00296 (Lee/Field). September 22, 1999.

San Mateo County, Kan Dee Rud. 1999b. Letter to Stan Field regarding findings and adopted conditions. November 9, 1999.

San Mateo County. 2000. "Re-circulation of a Negative Declaration for a Single-Family Residence, Barn, and Farm Labor Housing Unit; San Mateo County Planning Division File No. PLN 1999-00960; State Clearinghouse File No. 2000062005." June 14, 2000.

Staub, Stephen R. 2000. Letter to Stan Field regarding Lee property and proposed residence, Año Nuevo. June 28, 2000.

Thomas Reid Associates. 1999. Biological Impact Report for APN 089-230-220, San Mateo County, CA for Compliance with San Mateo County Local Coastal Plan Policies. August 1999.

Thomas Reid Associates, Patrick Kobernus. 2000a. Letter to David Lee regarding biological assessment of alternative building sites for APN 089-230-220 at 2070 Cabrillo Highway, San Mateo County, California. March 20, 2000.

Thomas Reid Associates. 2000b. Wetland Delineation for Lee Property (APN 0889-230-220), San Mateo County, California. June 2000, revised July 2000.

Thomas Reid Associates, Taylor Peterson. 2000c. Letter to Stan Field regarding Lee property, Año Nuevo. June 21, 2000.

A-2-SMC-99-066

David Lee

US Department of Agriculture. 1961. Soil Survey, San Mateo Area, California. Soil Conservation Service, Series 1954, No. 13, Issued May 1961.

Personal Communication

Cesna, Danny, Department of Forestry and Fire Protection, December 5, 2000.

Field, Stan, Architect, January 10, 2000.

Staub, Stephen R., Registered Professional Forester (License Number 1911), July 24, 2000.

Appendix B

Referenced Policies of the San Mateo Local Coastal Plan

*1.8 Land Uses and Development Densities in Rural Areas

- a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.
- b. Permit in rural areas land uses designated on the Local Coastal Program Land Use Plan Maps, and conditional uses up to the densities specified in Tables 1.2 and 1.3.

c. (1) Require Density Credits for Non-Agricultural Uses

Require density credits for all new or expanded non-agricultural land uses in rural areas, including all residential uses, except affordable housing (to the extent provided in Local Coastal Program Policy 3.23) and farm labor housing, as defined in Local Coastal Program Policy 3.28, mining in accordance with General Plan Policies 3.11 and 3.12, and solid waste facilities under the policies in General Plan Chapter 13. The existence and number of density credits on a parcel shall be determined by applying Table 1.3.

Expanded or additional non-agricultural uses shall only be permitted on a parcel when there are enough density credits available to that parcel to meet the density credit requirements of this policy for both (a) existing uses, and (b) any expanded or additional uses, and only where such development meets all other applicable policies of the Local Coastal Program.

(2) Amount of Development Allowed for Non-Agricultural Uses, Except Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For new or expanded non-agricultural uses, except visitor-serving, commercial recreation, and public recreation uses, one density credit shall be required for each 315 gallons, or fraction thereof, of average daily water use during the two months of highest water use in a year. This requirement applies to water use by or resulting from the non-agricultural use, including landscaping, swimming pools and all other appurtenant uses.

(a) Residential Uses

For new or expanded residential uses, a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and all other appurtenant uses).

(b) Non-Agricultural Uses Except Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For non-agricultural uses, except visitor-serving, commercial recreation, and public recreation uses, the amount of development allowed for each density credit in accordance with the requirements of this policy shall be the amount stated in Table 1.5 in the column headed "Number of Measuring Units Per Density Credit Based on Peak Daily Water Use With Conservation Fixtures."

***5.1** Definition of Prime Agricultural Lands

Define prime agricultural lands as:

- a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.
- b. All land which qualifies for rating 80-100 in the Storie Index Rating.
- c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.
- d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre.
- e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years.

The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

***5.3 Definition of Lands Suitable for Agriculture**

Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

***5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture**

- a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.
- b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

***5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture**

- a. Permit agricultural and agriculturally related development on land suitable for agriculture. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purpose, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single-family residences.
- b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) multi-family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod

and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production, and storage, (12) facilities for the processing, storing, packaging and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

***5.8 Conversion of Prime Agricultural Land Designated as Agriculture**

- a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated:
 - (1) That no alternative site exists for the use,
 - (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses,
 - (3) The productivity of any adjacent agricultural land will not be diminished, and
 - (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.
- b. In the case of a recreational facility on prime agricultural land owned by a public agency, require the agency:
 - (1) To execute a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture, and
 - (2) Whenever legally feasible, to agree to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

***5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture**

- a. Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:
 - (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;
 - (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;
 - (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;
 - (4) The productivity of any adjacent agricultural lands is not diminished;

- (5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.
- b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.

***5.11 Maximum Density of Development Per Parcel**

- a. Limit non-agricultural development densities to those permitted in rural areas of the Coastal Zone under the Locating and Planning New Development Component.
- b. Further, limit non-agricultural development densities to that amount which can be accommodated without adversely affecting the viability of agriculture.
- c. In any event, allow the use of one density credit on each legal parcel.
- d. A density credit bonus may only be allowed for the merger of contiguous parcels provided that (1) the density bonus is granted as part of a Coastal Development Permit, (2) a deed restriction is required as a condition of approval of that Coastal Development Permit, (3) the deed restriction requires that any subsequent land division of the merged property shall be consistent with all other applicable LCP policies, including Agriculture Component Policies, and shall result in at least one agricultural parcel whose area is greater than the largest parcel before consolidation, and (4) the Coastal Development Permit is not in effect until the deed restriction is recorded by the owner of the land. The maximum bonus shall be calculated by:
 - (1) Determining the total number of density credits on all parcels included in a master development plan; and
 - (2) Multiplying that total by 25% if the merger is entirely of parcels of 40 acres or less, or by 10% if some or all of the parcels combined are larger than 40 acres.

The merged parcel shall be entitled to the number of density credits on the separate parcels prior to merger plus the bonus calculated under this subsection. The total number of density credits may be used on the merged parcel. Once a parcel or portion of a parcel has been part of a merger for which bonus density credit has been given under this subsection, no bonus credit may be allowed for any subsequent merger involving that parcel or portion of a parcel.

- e. Density credits on parcels consisting entirely of prime agricultural land, or of prime agricultural land and land which is not developable under the Local Coastal Program, may be transferred to other parcels in the Coastal Zone, provided that the entire parcel from which credits are transferred is restricted permanently to agricultural use by an easement granted to the County or other governmental agency. Credits transferred may not be used in scenic corridors or on prime agricultural lands; they may be used only in accordance with the policies and standards of the Local Coastal Program.

***7.1 Definition of Sensitive Habitats**

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting “rare and endangered” species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

***7.3 Protection of Sensitive Habitats**

- a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.
- b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

***7.4 Permitted Uses in Sensitive Habitats**

- a. Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.
- b. In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.

7.5 Permit Conditions

- a. As part of the development review process, require the applicant to demonstrate that there will be no significant impact on sensitive habitats. When it is determined that significant impacts may occur, require the applicant to provide a report prepared by a qualified professional which provides: (1) mitigation measures which protect resources and comply with the policies of the Shoreline Access, Recreation/Visitor-Serving Facilities and Sensitive Habitats Components, and (2) a program for monitoring and evaluating the effectiveness of mitigation measures. Develop an appropriate program to inspect the adequacy of the applicant's mitigation measures.
- b. When applicable, require as a condition of permit approval the restoration of damaged habitat(s) when in the judgment of the Planning Director restoration is partially or wholly feasible.

7.7 Definition of Riparian Corridors

Define riparian corridors by the "limit of riparian vegetation" (i.e., a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of freshwater: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

7.8 Designation of Riparian Corridors

Establish riparian corridors for all perennial and intermittent streams and lakes and other bodies of freshwater in the Coastal Zone. Designate those corridors shown on the Sensitive Habitats Map and any other riparian area meeting the definition of Policy 7.7 as sensitive habitats requiring protection, except for manmade irrigation ponds over 2,500 sq. ft. surface area.

7.9 Permitted Uses in Riparian Corridors

- a. Within corridors, permit only the following uses: (1) education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fish and wildlife management activities, (4) trails and scenic overlooks on public land(s), and (5) necessary water supply projects.
- b. When no feasible or practicable alternative exists, permit the following uses: (1) stream dependent aquaculture, provided that non-stream dependent facilities locate outside of corridor, (2) flood control projects, including selective removal of riparian vegetation, where no other method for protecting existing structures in the

floodplain is feasible and where such protection is necessary for public safety or to protect existing development, (3) bridges when supports are not in significant conflict with corridor resources, (4) pipelines, (5) repair or maintenance of roadways or road crossings, (6) logging operations which are limited to temporary skid trails, stream crossings, roads and landings in accordance with State and County timber harvesting regulations, and (7) agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels.

7.10 Performance Standards in Riparian Corridors

Require development permitted in corridors to: (1) minimize removal of vegetation, (2) minimize land exposure during construction and use temporary vegetation or mulching to protect critical areas, (3) minimize erosion, sedimentation, and runoff by appropriately grading and replanting modified areas, (4) use only adapted native or non-invasive exotic plant species when replanting, (5) provide sufficient passage for native and anadromous fish as specified by the State Department of Fish and Game, (6) minimize adverse effects of waste water discharges and entrainment, (7) prevent depletion of groundwater supplies and substantial interference with surface and subsurface waterflows, (8) encourage waste water reclamation, (9) maintain natural vegetation buffer areas that protect riparian habitats, and (10) minimize alteration of natural streams.

7.11 Establishment of Buffer Zones

- a. On both sides of riparian corridors, from the “limit of riparian vegetation” extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.
- b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high water point for perennial streams and 30 feet from the midpoint of intermittent streams.
- c. Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point except for manmade ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.

7.12 Permitted Uses in Buffer Zones

Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) residential uses on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) in Planned Agricultural, Resource Management and Timber Preserve Districts, residential structures or impervious surfaces only if no feasible alternative exists, (4) crop growing and grazing consistent

with Policy 7.9, (5) timbering in “streamside corridors” as defined and controlled by State and County regulations for timber harvesting, and (6) no new residential parcels shall be created whose only building site is in the buffer area.

7.13 Performance Standards in Buffer Zones

Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural topography to minimize erosion potential, (3) make provisions (i.e., catch basins) to keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor, (6) remove vegetation in or adjacent to manmade agricultural ponds if the life of the pond is endangered, (7) allow dredging in or adjacent to manmade ponds if the San Mateo County Resource Conservation District certified that siltation imperils continued use of the pond for agricultural water storage and supply, and (8) require motorized machinery to be kept to less than 45 dBA at any wetland boundary except for farm machinery and motorboats.

7.14 Definition of Wetland

Define wetland as an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mudflats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and manmade impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernal wet areas where the soils are not hydric.

In San Mateo County, wetlands typically contain the following plants: cordgrass, pickleweed, jaumea, frankenia, marsh mint, tule, bullrush, narrow-leaf cattail, broadleaf cattail, pacific silverweed, salt rush, and bog rush. To qualify, a wetland must contain at least a 50% cover of some combination of these plants, unless it is a mudflat.

7.15 Designation of Wetlands

- a. Designate the following as wetlands requiring protection: Pescadero Marsh, Pillar Point Marsh (as delineated on Map 7.1), marshy areas at Tunitas Creek, San Gregorio Creek, Pomponio Creek and Gazos Creek, and any other wetland meeting the definition in Policy 7.14.
- b. At the time a development application is submitted, consider modifying the boundary of Pillar Point Marsh (as delineated on Map 7.1) if a report by a qualified

professional, selected jointly by the County and the applicant, can demonstrate that land within the boundary does not meet the definition of a wetland.

7.16 Permitted Uses in Wetlands

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

7.17 Performance Standards in Wetlands

Require that development permitted in wetlands minimize adverse impacts during and after construction. Specifically, require that: (1) all paths be elevated (catwalks) so as not to impede movement of water, (2) all construction takes place during daylight hours, (3) all outdoor lighting be kept at a distance away from the wetland sufficient not to affect the wildlife, (4) motorized machinery be kept to less than 45 dBA at the wetland boundary, except for farm machinery, (5) all construction which alters wetland vegetation be required to replace the vegetation to the satisfaction of the Planning Director including “no action” in order to allow for natural reestablishment, (6) no herbicides be used in wetlands unless specifically approved by the County Agricultural Commissioner and State Department of Fish and Game, and (7) all projects be reviewed by the State Department of Fish and Game and State Water Quality Board to determine appropriate mitigation measures.

7.18 Establishment of Buffer Zones

Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

7.19 Permitted Uses in Buffer Zones

Within buffer zones, permit the following uses only: (1) uses allowed within wetlands (Policy 7.16) and (2) public trails, scenic overlooks, and agricultural uses that produce no impact on the adjacent wetlands.

7.32 Designation of Habitats of Rare and Endangered Species

Designate habitats of rare and endangered species to include, but not be limited to, those areas defined on the Sensitive Habitats Map for the Coastal Zone.

7.33 Permitted Uses

- a. Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.
- b. If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U.S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

7.34 Permit Conditions

In addition to the conditions set forth in Policy 7.5, require, prior to permit issuance, that a qualified biologist prepare a report which defines the requirements of rare and endangered organisms. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and migration requirements, (2) plants life histories and soils, climate and geographic requirements, (3) a map depicting the locations of plants or animals and/or their habitats, (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

7.35 Preservation of Critical Habitats

Require preservation of all habitats of rare and endangered species using criteria including, but not limited to, Section 6325.2 (Primary Fish and Wildlife Habitat Area Criteria) and Section 6325.7 (Primary Natural Vegetative Areas Criteria) of the Resource Management Zoning District.

7.36 San Francisco Garter Snake

- a. Prevent any development where there is known to be a riparian or wetland location for the San Francisco garter snake with the following exceptions: (1) existing manmade impoundments smaller than one-half acre in surface, and (2) existing manmade impoundments greater than one-half acre in surface providing mitigation

measures are taken to prevent disruption of no more than one half of the snake's known habitat in that location in accordance with recommendations from the State Department of Fish and Game.

- b. Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.

7.44 Permitted Uses

Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

7.48 Monterey Pine

- a. Require any development to keep to a minimum the number of native Monterey pine cut in the natural pine habitat near the San Mateo-Santa Cruz County line.
- b. Allow the commercial cutting of Monterey pine if it: (1) perpetuates the long-term viability of stands, (2) prevents environmental degradation, and (3) protects the viewshed within the Cabrillo Highway Scenic Corridor.
- c. To preserve the productivity of prime agricultural soils, encourage the control of invasive Monterey pine onto the soils.

7.51 Voluntary Cooperation

Encourage the voluntary cooperation of private landowners to remove from their lands the undesirable pampas grass, French, Scotch and other invasive brooms. Similarly, encourage landowners to remove blue gum seedlings to prevent their spread.

8.5 Location of Development

- a. Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.

Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.

This provision does not apply to enlargement of existing structures, provided that the size of the structure after enlargement does not exceed 150% of the pre-existing floor area, or 2,000 sq. ft., whichever is greater.

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation on the parcel. In such cases, agricultural development shall use appropriate building materials, colors, landscaping and screening to eliminate or minimize the visual impact of the development.

- b. Require, including by clustering if necessary, that new parcels have building sites that are not visible from State and County Scenic Roads and will not significantly impact views from other public viewpoints. If the entire property being subdivided is visible from State and County Scenic Roads or other public viewpoints, then require that new parcels have building sites that minimize visibility from those roads and other public viewpoints.

***8.17 Alteration of Landforms; Roads and Grading**

- a. Require that development be located and designed to conform with, rather than change landforms. Minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development.
- c. Control development to avoid the need to construct access roads visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation, or convert agricultural soils. In such cases, build new access roads to minimize alteration of existing landforms and natural characteristics.

8.18 Development Design

- a. Require that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.

The colors of exterior materials shall harmonize with the predominant earth and vegetative colors of the site. Materials and colors shall absorb light and minimize reflection. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.

Except for the requirement to minimize reflection, agricultural development shall be exempt from this provision. Greenhouse development shall be designed to minimize visual obtrusiveness and avoid detracting from the natural characteristics of the site.

- b. Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site.

8.20 Scale

Relate structures in size and scale to adjacent buildings and landforms.

8.28 Definition of Scenic Corridors

Define scenic corridors as the visual boundaries of the landscape abutting a scenic highway and which contain outstanding views, flora, and geology, and other unique natural or manmade attributes and historical and cultural resources affording pleasure and instruction to the highway traveler.

8.29 Designation of Officially Adopted State Scenic Roads and Corridors

Recognize officially adopted State Scenic Roads and Corridors as shown on the Scenic Roads and Corridors Map for the Coastal Zone. These are: Coast Highway south of Half Moon Bay city limits (State Route 1) and Skyline Boulevard (State Route 35).

8.31 Regulation of Scenic Corridors in Rural Areas

- a. Apply the policies of the Scenic Road Element of the County General Plan.
- b. Apply Section 6325.1 (Primary Scenic Resources Areas Criteria) of the Resource Management (RM) Zoning District as specific regulations protecting Scenic Corridors in the Coastal Zone.
- c. Apply the Rural Design Policies of the LCP.
- d. Apply the Policies for Landforms and Vegetative Forms of the LCP.

- e. Require a minimum setback of 100 feet from the right-of-way line, and greater where possible; however, permit a 50-foot setback when sufficient screening is provided to shield the structure from public view.
- f. Continue applying special regulations for the Skyline Boulevard and Cabrillo Highway State Scenic Corridors.

SECTION 6325. SUPPLEMENTARY REVIEW CRITERIA FOR PRIMARY RESOURCE AREAS.

These supplementary review criteria shall apply to developments that fall within Primary Resource Areas as designated or defined in the Conservation and Open Space Element of the San Mateo County General Plan. These criteria are in addition to all other Development Permit Review Criteria.

SECTION 6325.1 PRIMARY SCENIC RESOURCES AREAS CRITERIA.

The following criteria shall apply within Scenic Corridors and other Primary Scenic Resource Areas as defined or designated in the Open Space and Conservation Element of the San Mateo County General Plan:

- (a) Public views within and from Scenic Corridors shall be protected and enhanced, and development shall not be allowed to significantly obscure, detract from, or negatively affect the quality of these views. Vegetative screening or setbacks may be used to mitigate such impacts...
- (c) Within a corridor, pathway pavements should be colored or selected to blend in with the surrounding landscape...
- (e) Curved approaches to Scenic Corridors shall be used in conjunction with native planting to screen access roads from view. Additional planting may be required where existing planting is considered insufficient. Planting shall be placed so that it does not constitute a safety hazard.
- (f) The number of access roads to a Scenic Corridor shall be minimized wherever possible. Development access roads shall be combined with the intent of minimizing intersections with scenic roads, prior to junction with a Scenic Corridor unless severely constrained by topography. Traffic loops shall be used to the maximum extent possible so that dead-end roads may be minimized...
- (g) Colors and plant materials shall be selected as necessary to minimize visual impact of development upon Scenic Corridors...
- (h) Selective clearing of vegetation which allows the display of important public views may be permitted.

- (i) Scenic Corridor development should include vista points and roadside rests which provide an opportunity to view scenic amenities and natural features...
- (k) No development, with the exception of agricultural uses, shall be permitted on grass and/or brush land in Scenic Areas unless such development will be screened effectively from existing or proposed public viewing areas of Scenic Corridors...
- (m) No development shall be permitted to obstruct or significantly detract from views of any Scenic Area or Landscape Feature from a Scenic Corridor.
- (n) Screening as required under this section should not consist of solid fencing, rather it should be of natural materials of the area, preferably natural vegetation in conjunction with low earth berms.*